



Kent Academic Repository

Misek, Richard (2015) *Trespassing Hollywood: Property, Space, and the "Appropriation Film"*. October, 153 . pp. 132-148. ISSN 0162-2870.

Downloaded from

<https://kar.kent.ac.uk/50318/> The University of Kent's Academic Repository KAR

The version of record is available from

https://doi.org/10.1162/OCTO_a_00230

This document version

Publisher pdf

DOI for this version

Licence for this version

UNSPECIFIED

Additional information

Versions of research works

Versions of Record

If this version is the version of record, it is the same as the published version available on the publisher's web site. Cite as the published version.

Author Accepted Manuscripts

If this document is identified as the Author Accepted Manuscript it is the version after peer review but before type setting, copy editing or publisher branding. Cite as Surname, Initial. (Year) 'Title of article'. To be published in *Title of Journal* , Volume and issue numbers [peer-reviewed accepted version]. Available at: DOI or URL (Accessed: date).

Enquiries

If you have questions about this document contact ResearchSupport@kent.ac.uk. Please include the URL of the record in KAR. If you believe that your, or a third party's rights have been compromised through this document please see our [Take Down policy](https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies) (available from <https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies>).



*An unauthorized partial recording of Christian Marclay's
The Clock as accessed on Vimeo, May 21, 2015.*

Trespassing Hollywood: Property, Space, and the “Appropriation Film”

RICHARD MISEK

In the two decades since the first exhibition of Douglas Gordon’s *24 Hour Psycho* (1993), “appropriation”—a mainstay of visual art since the mid-twentieth century—has become a common feature of experimental filmmaking and artists’ film and video. Many of the most prominent contemporary practitioners in these fields (including Cory Arcangel, Mark Leckey, Christian Marclay, and Nicolas Provost) have made their names by creating montages, collages, mash-ups, and other transformative works from preexisting moving images. Perhaps the clearest evidence so far of appropriation’s prominence within moving-image arts was the 2012 Turner Prize, in which the works of two of the four finalists (Luke Fowler and Elizabeth Price, who won) were videos constructed mainly from archival television footage. Of course, this artistic turn is symptomatic of a broader cultural turn that has seen media reuse spread to everyday practice. However artists’ audiovisual appropriations may differ from fan-made YouTube supercuts, the two share a crucial technological precondition: the ability to copy and transform source files without a significant reduction in quality.¹ Applied to video, Nicolas Bourriaud’s characterization of contemporary artistic practice as “postproduction” loops back to its original meaning. It describes not only the creative process of “selecting cultural objects and inserting them into new contexts” but also the technologies through which this process takes place: video-editing, sound-mixing, and visual-effects (i.e., “postproduction”) software.²

The OED defines appropriation as “the making of a thing private property, whether another’s or (as now commonly) one’s own.” In the preface to the second edition of *Postproduction*, Bourriaud suggests that the concept of artistic property as something to be guarded and occasionally seized is obsolescent:

[A]rtists’ intuitive relationship with art history is now going beyond what we call “the art of appropriation,” which naturally infers an ideology of ownership, and moving toward a culture of the use of forms, a cul-

1. The term “supercut” denotes an amateur montage, typically made by a fan, which assembles similar elements from disparate source material—for example, shots of people from different films saying the same line.

2. Nicolas Bourriaud, *Postproduction: Culture as Screenplay: How Art Reprograms the World*, trans. Jeanine Herman (New York: Lukas & Sternberg, 2002), p. 4.

ture of constant activity of signs based on a collective ideal: sharing. The Museum like the City itself constitutes a catalog of forms, postures, and images for artists—collective equipment that everyone is in a position to use, not in order to be subjected to their authority but as tools to probe the contemporary world.³

Since Bourriaud formulated his argument, “postproduction” has become a defining feature of digital culture. Accordingly, recent commentators have begun to suggest updated definitions of appropriation that respond to current practices. For example, in his book *In Praise of Copying*, Marcus Boon defines appropriation as “the act of claiming the right to use, make, or own something that someone else claims in the same way.”⁴ Boon’s expansive definition responds to the fact that media now exist in multiple contexts and are the object of diverse technological transformations.⁵

Yet despite the cultural turn towards media reuse, wherever there is appropriation there is also property. And where there is property, there are property owners keen to protect what they regard as theirs. So media reuse has become a key site of territorial conflict in the political battles currently being fought over the ownership of information. The rise since the late 1990s of what digital activist Lawrence Lessig calls “Read/Write” culture has led to new digital-rights-management (DRM) technologies and aggressive assertions of “intellectual property” (IP) rights by media owners.⁶ These developments have been supported in turn by national laws and international agreements reinforcing “long and strong” copyright.⁷ In a climate in which the dominant legal metaphor for creative works is that of property and in which property is itself sacrosanct, it is perhaps not surprising that even noncommercial file sharing has led to sentences of up to five years in prison.⁸ At the same time, advocates of open culture have mounted their own counteroffensives, such as the Creative Commons licensing system and the international Pirate Party movement. Clearly we are still far away from a stable equilibrium that reconciles legal property “rights” with the moral and artistic “right” to transform preexisting media into new work.

How have film and video artists responded to these differing views about what constitutes our cultural commons? There are as many answers to this question as there are artists who “appropriate.” Yet each answer depends directly or indirectly on how the artist has approached the question of property in the making and showing of their work. In this article, I explore the relationship between property and appropriation in film and video with reference to two test cases: Thom Andersen’s essay film *Los Angeles Plays Itself* (2003) and Christian Marclay’s

3. Bourriaud, *Postproduction*, p. 3.

4. Marcus Boon, *In Praise of Copying* (Cambridge, Mass.: Harvard University Press, 2010), p. 213.

5. This is the definition of appropriation that I use throughout this article, unless otherwise stated.

6. Lawrence Lessig, *Remix: Making Art and Commerce Thrive in the Hybrid Economy* (London: Penguin, 2008).

7. Patricia Aufderheide and Peter Jaszi, *Reclaiming Fair Use: How to Put Balance Back in Copyright* (Chicago: University of Chicago Press, 2011), p. 6.

8. David Kravets, “Record 5-Year Prison Term Handed to Convicted File Sharer,” *Wired* (March 1, 2013), <http://www.wired.com/threatlevel/2013/01/record-filing-sharing-term/>.

video collage *The Clock* (2011). Both involve transformative reuse of preexisting film and television material. Yet in their overall conception, in their methods of production, and in their distribution and exhibition, Andersen's and Marclay's works are drastically different. In each case, I argue, this difference hinges on how the two artists have engaged with the question of intellectual property.

Of course, property is also a spatial phenomenon. Though distinct and often discussed separately, intellectual property and spatial property are closely related. Accordingly, I also discuss the artistic appropriations of *Los Angeles Plays Itself* and *The Clock* within a broader context—as, variously, a negotiation, assertion, and rejection of different intellectual *and spatial* property rights. The political and ethical choices faced by moving-image artists play out both creatively and spatially: both in what source material they use and how they use it, and in where they show their work (for example, in cinemas, in galleries, on television, on public screens, or online). In this article, I demonstrate how *Los Angeles Plays Itself* and *The Clock* provide opposing models for how film and video artists can produce and distribute their work within a culture paradoxically predicated on both sharing and ownership.

Expropriation in Los Angeles Plays Itself

Los Angeles Plays Itself is an essay film comprising clips from almost three hundred films and television shows shot on location in Los Angeles between 1913 and 2001.⁹ It uses these clips to trace two parallel histories: how the urban spaces of Los Angeles changed over the course of the twentieth century, and how the film industry mediated this change. As its narrator notes, the film explores the idea that “if we can appreciate documentaries for their dramatic qualities, maybe we can appreciate movies for their documentary qualities.” Inverting the tendency of Hollywood films to make use of the city as a backdrop for personal stories, Andersen makes use of his source films in order to learn about the city. For example, in a clip from *L.A. Confidential* (Curtis Hanson, 1997), a dead body sits in the living room of Richard Neutra's Lovell House, but—in contrast to police officers Edmund Exley (Guy Pearce) and Wendell White (Russell Crowe)—the film's narrator is most interested in the corpse's open-plan surroundings, and what they tell us about the communal ideals of mid-twentieth-century West Coast modernism.

Fredric Jameson once famously asked, “Is Space Political?”¹⁰ The answer to his rhetorical question is, of course, that it is. In contrast to many of the films it references, *Los Angeles Plays Itself* is alive to the fact that major cities are epicenters of power and prominent sites of its expression. Andersen's film engages in detail with the various methods by which those with power have shaped and represented Los Angeles. For example, it explores the privatization of the city's public utilities, the

9. “Movies Mentioned in Los Angeles Plays Itself Take 2,” *Words, Words, Words* (blog), May 28, 2007, <http://www.twotreatises.org/409>.

10. Fredric Jameson, “Is Space Political?,” in *Rethinking Architecture: A Reader in Cultural Theory*, ed. Neil Leach (London: Routledge, 1997), pp. 255–69.

city authorities' systematic neglect of public housing and transportation after World War II, and the gradual takeover of Los Angeles by private and quasi-public spaces including the road, the shopping mall, and the office block. *Los Angeles Plays Itself* is an angry film; its anger echoes that of Mike Davis's academic landmark *City of Quartz* (1992), which also explores the economic and political forces that shaped Los Angeles's spatial development (and, Davis argues, led to its social impoverishment) in the twentieth century. According to Davis, Los Angeles, like all capitalist cities, now plays out a "new class war (sometimes a continuation of the race war of the 1960s) at the level of the built environment."¹¹ *Los Angeles Plays Itself* extends this argument into media space, investigating how movies have collectively represented this class war. For example, a montage of clips of Bunker Hill dating from the 1950s to the '70s demonstrates how Hollywood inadvertently documented the area's transformation from a lively working-class neighborhood to the site of a speculative property boom. The irony that post-boom Bunker Hill was used in *The Omega Man* (Boris Sagal, 1971) as a stand-in for a postapocalyptic wasteland requires no elaboration.

There is no point in trying to summarize Andersen's eloquent, erudite, and occasionally vitriolic argument. If you haven't seen the film, I strongly recommend watching it and letting his narrator make the argument himself. What is worth summarizing, however, is how the film's form itself constitutes an engagement with the politics of property. One way in which it does so, as seen in the Bunker Hill sequence, is by repurposing movie clips; Andersen's technique here exists in continuity with politically motivated appropriation artists from Guy Debord to Barbara Kruger to Craig Baldwin. The film also engages directly with the politics of property by focusing on historical sites of communal life including the city's sports stadiums and long-forgotten trolley cars, rather than the private spaces of hilltop houses and corporate offices favored by so many Hollywood movies. A third way in which the film formally inverts the hierarchical property relations of Los Angeles is by redistributing media space (which, in a linear film, means running time) away from the wealthy and the white in favor of the poor and the non-white. Andersen's narrator notes: "To someone who knows Los Angeles from movies, it might appear that everyone who has a job lives in the hills or on the beach." By contrast, *Los Angeles Plays Itself* lingers on films made by members of the underrepresented majority: for example, black neorealist filmmakers Haile Gerima, Charles Burnett, and Billy Woodberry. By privileging cultures typically overlooked by Hollywood, the film also explores the less commonly mediated environments that they inhabit—notably, the eastern suburbs in which Gerima, Burnett, and Woodberry have lived and filmed.

In its treatment of mainstream and alternative cinemas as equals, and in its engagement with cultures and spaces that are usually granted only bit parts in media representations of the city, *Los Angeles Plays Itself* can be regarded as a kind

11. Mike Davis, *City of Quartz: Excavating the Future in Los Angeles* (London: Verso, 1990), p. 228.

of media heterotopia. In his well-known lecture “Of Other Spaces,” Michel Foucault initially defines heterotopias as “something like counter-sites, a kind of effectively enacted utopia in which the real sites, all the other real sites that can be found in the culture, are simultaneously represented, contested, and inverted.”¹² The sense that heterotopias form derivative expressions of a utopian impulse pervades *Los Angeles Plays Itself*. Andersen cannot transform Los Angeles into a more humane, democratic, and communal city. However, his filmic reconstruction creates an environment that is far more inclusive than either the media space of a typical Hollywood film or the physical space of Los Angeles itself. As Hollywood films mix with independent and underground films, beach dwellers mix with valley dwellers, and the city’s elites mix with those who exist at its economic and spatial margins; those who make history (and make movies about it) share space with those who suffer the consequences.

At the same time, as David Harvey notes with reference to Henri Lefebvre’s concept of the “right to the city,” all heterotopias must still negotiate their existence within larger capitalist structures.¹³ The capitalist structure that most tightly encloses *Los Angeles Plays Itself* is that of intellectual property. It is at this point worth introducing Lessig’s distinction between “Read/Only” and “Read/Write” cultures. “Read/Only” refers to the content industries, which create products that users “read” by looking at them, listening to them, or indeed reading them, but which they cannot fundamentally alter. Because of the historic difficulty of copying moving images, the film industry more or less successfully retained control of its products throughout the twentieth century. By contrast, Lessig refers to “Read/Write” as any method of engaging with a cultural product that has a transformative effect on it: for example, reading a musical score and then playing it on an instrument, or recutting a video.¹⁴ Following advances in computer technology in the 1990s, which made possible the copying and manipulation of audio and video files without a major loss of quality, “Read/Write” quickly became pervasive within digital culture. In response, both the music and movie industries began to lobby for new legislation and more aggressive litigation against copyright infringers.¹⁵ An early result of this lobbying was the Sonny Bono Copyright Term Extension Act (1998), which extended the duration of copyright to the life of an author plus seventy years.¹⁶ In parallel, the Digital Millennium Copyright Act (also 1998) criminalized the circumvention of encryption and other DRM technologies including DVD region encoding.¹⁷ The symbiosis between DRM technology and copyright law has continued ever since, resulting in what Jon Crowcroft character-

12. Michel Foucault, “Of Other Spaces: Utopias and Heterotopias,” in *Rethinking Architecture: A Reader in Cultural Theory*, ed. Neil Leach (London: Routledge, 1997), pp. 250–56.

13. David Harvey, *Rebel Cities: From the Right to the City to Urban Revolution* (London: Verso, 2012), p. 152.

14. Lessig, *Remix*, p. 28.

15. *Ibid.*, p. 38.

16. Sonny Bono Copyright Term Extension Act, 17 U.S. Code §§301–304.

17. Digital Millennium Copyright Act, 12 U.S. Code §1201.

izes as a “circular dependency” in which rights holders develop more and more DRM technologies to protect their property and lawmakers respond by prohibiting more and more forms of circumvention.¹⁸ This development in turn epitomizes a broader global tendency that has seen copyright move from what Glynn Lunney calls an “incentives-access” model towards what Mark Lemley calls an “absolute protection” or “full value” model.¹⁹ The first copyright law, the 1710 Statute of Anne, aimed to balance the social benefit of allowing access to valuable information with the need to provide authors with financial incentives to ensure that they generate this information in the first place. For two and a half centuries, subsequent laws tended to further this aim. Over recent decades, however, copyright law has increasingly taken as its premise the belief that private-property rights should extend to any information that carries potential economic value.²⁰ According to this model, the purpose of copyright becomes that of allowing rights holders to maximize the rental that they can earn from their property.

Perhaps by a mixture of accident and design, *Los Angeles Plays Itself* occupies an oppositional position with respect not only to the spatial privatization of the city but also to the neoliberal equation of information (in this case, images and sounds) with property.²¹ The history of Los Angeles, as Mike Davis shows us, is shaped by international capital’s appropriation of spaces formerly owned by individuals or the state—Bunker Hill is just one of many examples of this process. Though publicly accessible, many if not most of the public plazas in Los Angeles (and in cities across the world) are privately owned; the public is allowed access to them, but only under strict conditions—notably, as demonstrated by the Occupy movement, the condition that members of the public not take part in public gatherings within them. Studio films also appropriate space on behalf of international capital. Once mediated, physical space becomes intellectual property. The cinematic images of a city also constitute spaces that we are only allowed to navigate on strict terms—in particular, that we not watch them in large unauthorized groups and that we not copy and share them. Anyone who does copy media files without permission is, to use the industry’s preferred metaphor, a “pirate.”²² The metaphor evokes the sense of objects forcibly, even violently, seized. Of course, as has often been noted, the “stealing” of digital content does not entail material dis-

18. Jon Crowcroft, “Copyright, Piracy and Software,” in *Copyright and Piracy: An Interdisciplinary Critique*, ed. Lionel Bentley, Jennifer Davis, and Jane C. Ginsburg (Cambridge University Press, 2010), pp. 209–29.

19. Cited in Anne Barron, “Copyright Infringement, ‘Free-Riding’ and the Lifeworld,” in Bentley, Davis, and Ginsburg, *Copyright and Piracy*, pp. 93–127.

20. *Ibid.*, p. 110.

21. I suggest the role of accident as well as design here because in interviews Andersen himself typically comes across as less overtly political than his narrator. See, for example, Matthias Stork, “‘A Film Is Alive During Its Making’—An Interview with Filmmaker Thom Andersen,” *Mediascape* (Fall 2013), http://www.tft.ucla.edu/mediascape/Winter2013_AFilmIsAlive.html.

22. For a historical account of the use of the term “piracy” with reference to copying, see William St Clair, “Metaphors of Intellectual Property,” in *Privilege and Property: Essays on the History of Copyright*, ed. Ronan Deazley, Martin Kretschmer, and Lionel Bentley (Cambridge: Open Book, 2010), pp. 369–95.

possession.²³ The term “piracy” also fails to distinguish between those who copy films for cultural or educational purposes and those who copy them in order to sell them at prices and in quantities that impinge on their legal owners’ revenues. Accordingly, I wish to suggest an alternative metaphor for the noncommercially motivated reuse of media files: not piracy, but trespassing. In the context of current IP enforcement, if a filmmaker or artist wishes to use a piece of copyrighted media, then—unless they are able to pay upwards of \$100 per second of footage used and employ a team of lawyers to take care of the contracts—they must trespass on privately owned media space.

This is precisely what Andersen does. A particularly resonant example of media trespassing is provided by a sequence in which his narrator catalogues various movie cameos played by Frank Lloyd Wright’s Ennis House. Perhaps best known as the interior of Rick Deckard’s apartment in *Blade Runner* (1982), the Ennis House is prime cinematic real estate. Its unconventional, vaguely Mayan appearance has made it a popular backdrop across various forms of moving image, from sci-fi movies to pop videos. Each time a producer uses it as a location, they have to pay far in excess of the property’s rental value; this extra payment grants them intellectual-property rights over the images of the house that they record. As a result, once the film is released, certain private spaces within and around the house are transformed into “quasi-public” media space accessible under strict rental terms. Andersen rejects these terms. He copies footage of the Ennis House and recontextualizes it. He does so without asking permission either from the house’s current owner or from the owners of the clips that he used. He counters the various media appropriations of the Ennis House by *expropriating* clips from the movies in which these appropriations take place. “Expropriation” historically refers to the state’s forcible removal of property from private ownership; as a result, it has a fairly negative connotation. But, as in the case of appropriation, perhaps an additional definition is now needed. Following Boon’s definition of appropriation as the claiming for oneself of that which others claim for themselves, I would suggest that expropriation can now also be defined as the claiming for the public of what individuals and corporations claim for themselves.²⁴ Despite its important place in Los Angeles’s architectural heritage, the Ennis House is currently closed to the public for all but five days of the year. By expropriating images of it, Andersen declares a media “open house” on behalf of the citizens of Los Angeles who have never been granted physical access to the house itself.

Andersen’s film polemically aligns itself with those excluded from the private spaces owned and inhabited by Los Angeles’s elites. Its production also took place

23. See, for example, Boon, *In Praise of Copying*, p. 177.

24. Hélène Cixous uses the term “depropriation” to describe a similar process (Boon, *In Praise of Copying*, p. 223). I favor “expropriation,” as the term has its own etymology, which is particularly useful in reconnecting intellectual and spatial property. Also, Cixous’s term does not, as far as I can tell, provide any additional way of understanding the repatriation of property that is not already implicit in the term “expropriation.”

outside the confines of “Read/Only” institutions. The film emerged from cinephilic culture rather than the movie industry; it started life as a compilation used by Andersen, a professor at CalArts, when giving talks about Los Angeles in film. It was made without institutional funding: Andersen and his editor Seung-Hyun Yoo cut the film by legally squatting a school AVID suite on evenings and weekends. And it features clips sourced from a multiplicity of (primarily consumer) formats including commercial VHS tapes, VHS tapes of television broadcasts, laser discs, DVDs, and U-Matic ¾-inch tapes.²⁵ Andersen’s recent remastering of the film also involved copying HD video footage from Blu-ray discs and streaming video—all gathered through DRM-circumvention software.²⁶

Not only has the production of *Los Angeles Plays Itself* involved “Read/Write” practices—so, too, has its distribution. The film premiered at the Toronto International Film Festival and had numerous subsequent festival screenings.²⁷ However, having reached the end of its festival life, it all but disappeared. I have not been able to discover the precise reasons why it was not commercially released, but the “permissions culture” that surrounded the reuse of footage before the mid- to late 2000s surely played a part. Over recent years, cultural practitioners including filmmakers, journalists, visual artists, librarians, and academics have begun to discover that the US copyright exception of fair use can cover diverse reuses of media—including works made entirely out of reused media, works that repurpose a large proportion of a preexisting work, and works made for profit. But before the mid- to late 2000s, unauthorized media reuse was not yet understood to fall within the purview of fair use. Fearful of legal repercussions, distributors and broadcasters typically refused to touch documentaries that included unlicensed footage.

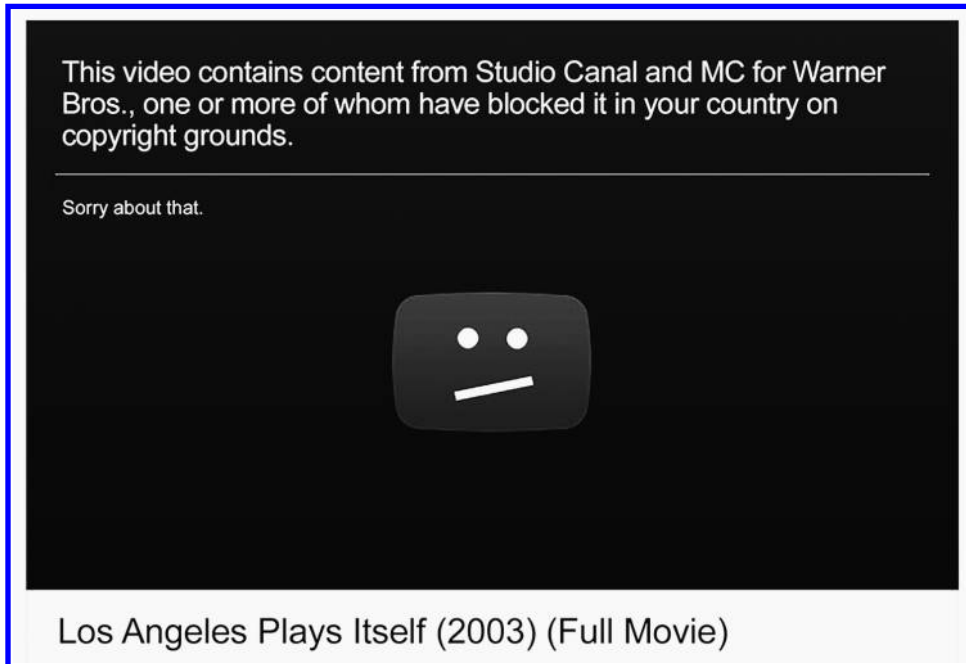
However satisfying it would have been to see *Los Angeles Plays Itself* become a test case for the application of fair use to film and video, this did not happen. That role was played by several films made a few years later, including Kirby Dick’s *This Film Is Not Yet Rated* and Sophie Fiennes’s *The Pervert’s Guide to Cinema* (both released in 2006). *Los Angeles Plays Itself* remained largely out of circulation. At last, in 2010, seven years after its premiere, it appeared on YouTube. As the ultimate expression of “Read/Write” culture’s distribution logic, YouTube formed a fitting platform for the film. It at last provided thousands of cinephiles, including myself, with our first opportunity to see Andersen’s now-mythic film. Of course, although YouTube distributes user-generated content, it is itself a private media space and a site of tension between “Read/Only” and “Read/Write” culture. The presence of *Los Angeles Plays Itself* on YouTube epitomizes this tension. Since 2010, uploaded copies of the film have been repeatedly subject to takedown notices by rights holders, sometimes disappearing from one account

25. Thom Andersen, email message to the author, November 25, 2013.

26. Mike Sperlinger, “Interview with Thom Andersen” (podcast), Luxonline, <http://lux.org.uk/downloads/podcast-interview-thom-andersen> (accessed November 4, 2013).

27. Thom Andersen, email message to the author, November 25, 2013.

only to reappear on another. Ironically, it is not Andersen (the actual author of the film) who has issued the takedown notices, but the rights holders of footage that appears in the film. In light of recent clarifications of fair use, it can now be unambiguously stated that *Los Angeles Plays Itself* is the legal “property” of Andersen and not Pathé, Sony, et al.²⁸ Yet this does not stop the content industries from continuing to make territorial claims over what is not theirs.



A YouTube takedown notice for Thom Andersen's Los Angeles Plays Itself. 2003.

It should be noted that the film's narrator never makes the connection between physical and intellectual property: He does not comment on the film's use of expropriation or on the political implications of this methodology. It should also be noted that Andersen himself, like surprisingly many artists and even political scientists, does not seem particularly interested in how physical and intellectual property resonate.²⁹ However, the connection between real estate and

28. For a detailed account of the recent clarification and extension of fair use (at least in the US), and of how to ensure that a work falls within it, see Aufderheide and Jaszi, *Reclaiming Fair Use*.

29. Elinor Ostrom, a leading commentator on the physical commons, clearly intuited a connection in the mid-2000s, when she began also to theorize the intellectual commons. See, for example, Charlotte Hess and Elinor Ostrom, eds., *Understanding Knowledge as a Commons: From Theory to Practice* (Cambridge, Mass.: MIT Press, 2007). However, she never published any work exploring how the two are connected.

intellectual property does not need to be expressed either by the narrator or the maker of *Los Angeles Plays Itself* to be expressed by the film itself; it is expressed by the film's argument, its methodology, its mode of production and even its distribution. *Los Angeles Plays Itself* argues for the urban commons by occupying the cultural commons. In doing so, it demonstrates the huge cultural benefits that can result from the expropriation of media. To those who might ask, "Why should people be allowed to copy and rework digital content for their own ends?" the existence of *Los Angeles Plays Itself* provides an irrefutable answer.

Reappropriation in The Clock

All artistic activities that use copyrighted material without permission implicitly assert the existence of a media commons, which we have a right to access as more than just consumers. This, however, does not mean that films and videos involving appropriation are intrinsically opposed to private media property. Though appropriation film and video are rooted in countercultural forms including experimental cinema and avant-garde visual art, the uses of "found footage" in current artistic practice are diverse and their purposes often far removed from Andersen's.³⁰ Furthermore, as Andersen's film itself demonstrates, works featuring "Read/Write" practices may themselves become integrated into "Read/Only" culture. Christian Marclay's *The Clock* is among the most prominent recent examples of artistic appropriation, and it exemplifies the paradoxes that underpin the practice. In this section, I examine the production and exhibition history of *The Clock* in order to provide an overview—and critique—of the institutional and economic context within which gallery-based appropriation film- and video-making currently exists.

The Clock is a 24-hour single-screen video installation comprising a montage of film and television clips, all of which include visual references to time. As Jonathan Romney observes, these may include direct references to time (shots of clocks and watches, and of characters looking at and responding to them) or indirect markers of time passing (such as candles burning and characters waiting).³¹ Every shot of a timepiece in the video shows a time that coincides with the time of viewing: A shot of a clock at noon, for example, will appear onscreen at noon. As in *Los Angeles Plays Itself*, the multiplicity of clips in *The Clock* results in what Martine Beugnet refers to as "a kind of journey through the history of the moving image."³² The nature of this journey, however, is quite different. The journey in *Los Angeles Plays Itself* is a narrated one. The voice-over provides us with a path through the clips; discussion always relates directly to what we are watching. By

30. It is notable that the first work to bear close resemblance to contemporary video collages is by a visual artist not a filmmaker. In *Rose Hobart* (1936), Joseph Cornell recut a print of *East of Borneo* (1931) to create a short film structured around close-ups of Rose Hobart, the film's lead actress.

31. Jonathan Romney, "What Time Is It Where?," *Sight and Sound* 12, no. 4 (May 2011), pp. 30–31.

32. Martine Beugnet, "Firing at the Clocks: Cinema, Sampling, and the Cultural Logic of the Late Capitalist Artwork," *Framework* 54, no. 2 (Fall 2013), p. 197.

contrast, *The Clock* features no voice-over. Its guiding logic is not narrative but spatio-temporal, its effect not critical but experiential. In a sense, the precise content of the disparate fragments of film and television history that Marclay uses is not important; what matters is that they contribute to create a sense of what he calls “false continuity.”³³ Understandably, in contrast to Andersen’s encyclopedic knowledge of Los Angeles films, Marclay was not familiar with most of the films he compiled; every day, he received video clips from his six researchers and—like a skilled DJ segueing from one track to another—seamlessly inserted them into his timeline.³⁴ In a sense, then, while *Los Angeles Plays Itself* opposes the film industry’s appropriations of Los Angeles, *The Clock* can be regarded as existing in continuity with them. Just as Hollywood plunders Los Angeles, *The Clock* plunders Hollywood. It decontextualizes and de-territorializes its source films and turns them into constituent parts of a self-referential mechanism: a 24-hour video called *The Clock* that itself constitutes a clock. The viewer’s journey is as much through Marclay’s constructed time-space as it is through moving-image history.

Despite the two works’ many differences, *The Clock* shares with *Los Angeles Plays Itself* a “Read/Write” production history. Marclay’s working practice was essentially artisanal: His engagement with his source “material” remained direct throughout his three-year production process. He made *The Clock* without the hierarchical workforce that is typically involved in even low-budget film projects; the only other significant creative contributor to the project was his sound designer, Quentin Chiappetta.³⁵ In addition, Marclay made the work entirely from ripped DVDs and edited it himself using Final Cut Pro.³⁶ Like *Los Angeles Plays Itself*, *The Clock* is thus premised on the existence of a shared cinematic imaginary: It draws on it, and is itself an expression of it. Marclay approached his source material as if it were in the public domain. However, he did not then follow the “share alike” principles of “Read/Write” culture; instead, he created a commercial product. *The Clock* is not only a cultural appropriation but also an economic appropriation. Marclay took thousands of copyrighted clips and effectively said, “These are mine.” Having *expropriated* them from their copyright holders, he then *reappropriated* them for himself and made a small fortune as a result.

How was Marclay able to pull off this sleight of hand? He did so by transplanting his material from the film world to the art world. Had he chosen to make a film, like Andersen did, he would have found himself with minimal opportunities to monetize his work. The economic model for the film world is mass distribution: In order to recoup their high production costs, film studios disseminate their products as widely (in as many ways and on as many media platforms) as possible. As Jonathan Walley notes, experimental filmmakers have

33. Romney, “What Time Is It Where?,” p. 30.

34. Ibid.

35. Ibid.

36. Daniel Zalewski, “The Hours: How Christian Marclay Created the Ultimate Digital Mosaic,” *The New Yorker* (March 12, 2012), http://www.newyorker.com/reporting/2012/03/12/120312fa_fact_zalewski.

also historically followed this distribution model, relying on rental fees from film institutes, festivals, and societies.³⁷ For example, the revenue that Andersen earned from *Los Angeles Plays Itself* during the film's first decade was directly proportional to the number of cinema screenings it had. Of course, as experimental films have historically had nowhere near the scale of distribution of commercial films, their potential for generating revenue through screenings has been limited. Nor is there any evidence that the recent abundance of video-on-demand platforms has yet provided non-mainstream filmmakers with significant extra revenue.

The art world provides an alternative economic model, based on scarcity, which inverts the mass-distribution logic of the film world. *Ceteris paribus*—the fewer copies there are of an artwork, the greater its value. Rather than distributing multiple low-cost copies of a work, the artist has historically distributed one high-cost copy—the original work itself. Of course, with artists' film and video, the artwork is itself a copy, and technologically vulnerable to further copying. As Boon has discussed, the concept of *copia* (from the Greek for abundance) finds renewed life in the context of digital media.³⁸ The film industry embraces *copia*, monetizing its products by creating multiple copies of them across multiple platforms; however, precisely because it does so, it also has to spend huge amounts of money to prevent others from doing the same. Conversely, artists' moving images resist *copia*. Since the 1990s, the distribution model has involved treating copies of films or videos as art objects through editioning.³⁹ A notable feature of editioning is that it provides an incredibly effective means of protecting the artist's intellectual property. Erika Balsom writes, "When one buys an edition, one purchases a rather curious combination of rights, content, and technical support—the specifics of which are closely regulated by the contracts accompanying this acquisition."⁴⁰ In this context, artists typically do not even need to invoke copyright. Instead, contracts combine with buyers' vested interest in maintaining the auratic quality of their property to result in a degree of protection from copying that Hollywood executives can only dream of.

The distribution history of *The Clock* exemplifies the above process. Marclay restricted access to his work by editioning six copies. He sold five to institutional buyers; the edition bought by LACMA changed hands for \$467,000—presumably the others went for a similar sum.⁴¹ The sixth edition apparently exists on a stockbro-

37. Jonathan Walley, "Modes of Film Practice in the Avant-Garde," in *Art and the Moving Image: A Critical Reader*, ed. Tanya Leighton (London: Tate Publishing, 2008), pp. 186–87.

38. Boon, *In Praise of Copying*, p. 53.

39. The parallels with the creation of artificial scarcity by California water companies in the early twentieth century (on which *Chinatown* is based, and which Andersen discusses in detail) are resonant.

40. Erika Balsom, "Original Copies: How Film and Video Became Art Objects," *Cinema Journal* 53, no. 1 (Fall 2013), p. 99.

41. Jori Finkel, "LACMA Acquires 'The Clock' by Christian Marclay and a Sculpture by Ai Weiwei through Annual Collecting Event," *Los Angeles Times*, April, 18, 2011, <http://latimesblogs.latimes.com/culturemonster/2011/04/last-month-culture-monster-reported-that-the-la-county-museum-of-art-was-working-to-acquire-christian-marclays-2010.html>.

ker's desktop in the form of a screensaver.⁴² Marclay's institutional buyers have in turn perpetuated this restricted access by exhibiting his temporally expansive artwork for relatively brief stretches of time. Like a timed rerelease of a Disney classic, each time *The Clock* comes round, it becomes a media event all over again. When it was shown at MoMA between December 2012 and January 2013, it attracted 40,000 (paying) visitors in one month and involved typical waiting times of three hours.⁴³ As Balsom observes, "The queue for *The Clock* fulfills the same function as the queue outside the Apple Store: it endows an experience with an aura of exclusivity and thereby heightens its appeal."⁴⁴

Intellectual property here again interlaces with spatial property. The exclusivity that Balsom refers to is spatial as well as temporal. An artwork whose value depends on artificial scarcity can only be presented to the public within a closely guarded private space: a *physical* space such as an art gallery. For a valuable work of film or video by an artist, exhibition in a private but publicly accessible media space such as a museum's website is still too public. So, for example, the only way one can access MoMA's extensive digital collection of artists' films and videos outside a gallery is by booking a visit to the museum's archives and sitting at a computer on-site. The museum building functions as a showroom and vault for film and video works as much as for physical art objects. In the specific case of appropriation films and videos held by museums, media are initially de-territorialized (for example, released from the region-specific encoding of DVDs or Blu-rays) and then re-territorialized. Both metaphorically and physically, the works become the subject of capitalist enclosure. Unsurprisingly, so far, *The Clock* has only been exhibited within its owners' properties.

There have been a number of opportunities for *The Clock* to be exhibited in public spaces, including Grand Central Station in New York, and projected in publicly visible spaces like an exterior wall of LACMA. Interestingly, Marclay has vetoed these ideas. In a recent interview, he cites aesthetic issues—for example, the difficulty of projecting the work in daylight and of preventing its sound mix from being overwhelmed by city noise.⁴⁵ These are valid concerns. As Balsom emphasizes, the above ideas emerge from institutions' desire to generate media events and would risk turning the artwork into an advertisement for a museum.⁴⁶ At the same time, I wonder if Marclay's repeated refusal to allow his work to be seen in public spaces also stems from an anxiety that this might allow people to film its entire duration, to copy and distribute it, and perhaps even (the horror!) play it *at the wrong time*—and so compromise its commodity status. By refusing requests for public screenings, Marclay is protecting not only his own work but also his patrons' investment. So *The Clock* continues to make infrequent, albeit regular,

42. Zalewski, "The Hours."

43. Erika Balsom, "Around *The Clock*: Museum and Market," *Framework* 54, no. 2 (Fall 2013), p. 186.

44. *Ibid.*, p. 178.

45. Zalewski, "The Hours."

46. Balsom, "Around *The Clock*," p. 189.

appearances on the artistic calendar. At the time of writing, it is not being exhibited; its public presence is restricted to a few short, covertly filmed videos made by gallery visitors and posted on YouTube. Like *Los Angeles Plays Itself*, *The Clock* started life as a media trespass. It has now become a media property that is itself trespassed upon.

Unsurprisingly, the question of how artists' films and videos are distributed is becoming an increasingly discussed—and contested—question. Speaking personally, I do not question either Marclay's effort and artistry or his claim to authorship over his work. As anyone who has experienced *The Clock* will admit, it is far more than the sum of its intricate parts. Nor do I begrudge Marclay his profit. In contrast to extra-territorial corporations like Apple and Amazon, I assume, he paid tax on it. What I do question, however, is the restriction of access to works whose circulation in contemporary culture would benefit both them and it. Locked in a digital vault, too much artists' film and video becomes cut off from the oxygen of public exposure. An unfortunate further consequence of the restricted access is that the cultural hierarchies historically associated with the exhibition of fine art are reinforced. If you're part of the cultural elite and regularly visit major biennials, you'll probably get to see some of the best artists' film and video currently made. If you happen to live in a global city (for example, London, New York, or Los Angeles), you may get to see it. Otherwise, you almost certainly won't.

To me, the artificial scarcity of *The Clock* is particularly regrettable. The rarefied nature of much art makes it suited to the exclusive spaces of the art gallery, frequented by those for whom the art is made. By contrast, the multitude of articles and features about *The Clock* in mainstream media, together with the crowds accompanying its every public appearance, suggest that its potential appeal is huge.⁴⁷ Catherine Russell speculates that perhaps one day, "in a world where copyright holders and proprietary museums relinquish their hold on the image-bank, *The Clock* will migrate out of the gallery and find its true home on the Internet."⁴⁸ It's an exciting prospect: Imagine a website that played *The Clock* around the clock, day after day, without break. Over time, it might become a digital landmark as universally recognized as Big Ben, the clock that chimes midnight in Marclay's montage. Perhaps *The Clock* might also be released in cinemas, so crossing back into the film world and finding a place for itself among the works from which it was made. However, for a range of reasons including contractual obligations, Marclay's own preferences, and art institutions' interest in safeguarding their property, it is unlikely this will ever happen. For

47. An interesting twist to the exhibition history of *The Clock* is provided by an October 2014 amendment to the UK's 1988 Copyright Designs and Patents Act (§30A), which includes the new copyright exceptions of parody, caricature, and pastiche . . . thereby making Marclay's reappropriation retroactively legal. Ironically, in a parliamentary legislation committee discussion of the amendment, David Willetts, minister for universities and science, cited *The Clock* as evidence for why the law needed to change. Unfortunately, the newly clarified legality of *The Clock* has not made it more accessible. <http://www.publications.parliament.uk/pa/cm201415/cmgeneral/deleg10/140709/140709s01.htm>.

48. Catherine Russell, "Cinema as Timepiece: Critical Perspectives on *The Clock*," *Framework* 54, no. 2 (Fall 2013), p. 175.

The Clock to have even a chance of escaping its imprisonment in the gallery, someone will have to record a 24-hour bootleg.

Of course, 40,000 visitors in one month is a huge number for a video installation, but let's put this in perspective. A tally of all the YouTube postings of *Los Angeles Plays Itself* that are currently live results in a figure of more than 100,000 views. That number would probably be several times larger if one were to count the various postings that have been removed over recent years in response to corporate takedown notices. In addition, the film's availability has recently increased even further. Thanks in part to the clarification and strengthening of fair use since the mid-2000s, in October 2014, *Los Angeles Plays Itself* was released commercially at last by the Cinema Guild, an independent-film distributor. It is now available internationally on DVD, Blu-ray, the distributor's VoD channel, and even Netflix. I doubt Andersen will be able to buy himself a hilltop home with the proceeds. But at the very least, the popularity of *Los Angeles Plays Itself* is surely enough to cause any film or video artist to reflect on whether there may perhaps sometimes be a trade-off between maximizing the economic value of their artwork and maximizing its cultural value.

I conclude by returning to Bourriaud's suggestion that artists have collectively moved toward "a culture of constant activity of signs based on a collective ideal: sharing." Does this collective ideal really exist? It is certainly present in many areas of grassroots digital culture and has become incorporated into ever more Internet art, including Chris Milk's interactive websites. However, when there is a chance of earning rent from their work, artists often refuse to share. Lawrence Lessig refers to a 2007 exhibition at White Cube by Candice Breitz, featuring fans singing John Lennon songs. The organizers tried to get clearance to use the music, but the process proved intractable. At one point, they even asked a sympathetic curator who personally knew Yoko Ono to intervene. Ono's reply, however, was "Permission is vital, legally."⁴⁹ In this instance, we see the unfortunate but economically inevitable situation in which appropriation causes two artists to face off from different sides of the "Read/Only" and "Read/Write" divide.⁵⁰ Eventually, though Breitz failed to secure permission, the exhibition took place anyway and there were no legal repercussions. Sanity prevailed.

One can only hope that sanity will continue to prevail despite the spread of DRM technologies and that artists will continue to be able to draw on the media landscape as freely as they do now. But it might not. It is up to us as theorists, critics, and practitioners to continue demonstrating the importance of appropriation to the evolution of culture. Perhaps one way for appropriation film- and video-makers to do so is by engaging with the "share alike" principles of "Read/Write" culture. I am certainly not arguing that we should give away our work; most of us

49. Lessig, *Remix*, p. 5.

50. Incidentally, White Cube is also Marclay's gallery. The tensions between "Read/Only" and "Read/Write" culture are so pervasive that even the same gallery may find itself operating on different sides of the divide.

already earn precious little from it as it is. But perhaps more appropriation artists might consider making work available via online galleries rather than pretending that the Internet does not exist.⁵¹ Or they might consider Sven Lütticken's idea of conceptually separating editioned copies from lower-quality viewing copies and being less precious about the circulation of the latter.⁵² Or, as Balsom suggests, they might consider giving free editioned copies to not-for-profit distributors such as Lux, from whom people could then rent them. Through such actions, they could at least begin to mitigate their reappropriation.

There is also a bigger issue at stake here. Bourriaud's belief in an artistic culture moving toward the free exchange of creative resources was typical of the idealism that accompanied the early years of the Internet. However, as developments over the subsequent decade and a half have demonstrated, the centuries-old battles over intellectual property now rage more intensely than ever. Whether our culture moves toward the ideal of sharing that Bourriaud implies is already with us, or toward greater regulation and restriction of access to cultural works, remains in the balance. Zygmunt Bauman has observed that struggles over what constitutes public space are crucial to the future of civilization.⁵³ The same can be said of public media space. In the currently fluid ideological and legal context, the myriad decisions that artists make in relation to what source material they use, how they use it, and where they exhibit it all have political resonance—regardless of whether they realize it. Marclay's motivation for keeping tight control over where and how *The Clock* is exhibited may be aesthetic. But the way in which he and his gallery have approached the production and distribution of *The Clock* plays out in miniature the ongoing enclosure of our cultural commons. It also forms part of a broader tendency that includes such seemingly disparate activities as the increased technological regulation of how we use our digital devices, the migration of scholarship from universities to the password-protected websites of commercial publishers, and even the privatization of public assets. By contrast, *Los Angeles Plays Itself* simultaneously draws on and contributes to our shared culture. At one point in the film, Andersen's narrator expresses the hope that Hollywood movies may one day more closely resemble Los Angeles itself. My own hope is that the distribution and exhibition of all art that uses extant media may one day more closely resemble that of *Los Angeles Plays Itself*. My fear is that it will ever more closely resemble that of *The Clock*.

51. It is notable how much less primary information (personal websites and blogs, interviews, documentation, trailers, clips, etc.) one tends to find when searching online for contemporary film or video artists than when searching for contemporary filmmakers. Artists often seem to apply the principle of artificial scarcity to themselves as well as their works.

52. Sven Lütticken, "Viewing Copies: On the Mobility of Moving Images," *e-flux journal* 8 (September 2009), <http://www.e-flux.com/journal/viewing-copies-on-the-mobility-of-moving-images>.

53. Zygmunt Bauman, *Liquid Modernity* (London: Polity Press, 2000), p. 39.