

The Art of Protest

I first heard about Canada's new Bill C-47 as I was printing off my series of Transit Shelter posters for the Emily Carr Institute 2007 graduation exhibition. My intention for this body of work is to create a visual narrative that encourages and engages public dialogue concerning the current issues of the Vancouver 2010 Olympics, such as homelessness, the environment and the representation of place as a consumable commodity. As they were running off the printer the technician said to me, "You know that these are illegal?"

I replied that, "I had been very careful of the copyright restrictions, I had used a different Pentium colors and font for the text, so I wasn't infringing upon any copyright laws."

"What I mean is VANOC has copyrighted the numbers 2010."

At that moment I was completely floored.

"How can you copy right a number?"

"I don't know, but they have. Didn't you see the article in the front page of the Vancouver Sun that listed everything that you are not allowed to do?"

"No", I awkwardly replied.

"I suggest you look it up on the Internet."

Sure enough Canada had passed the new Federal Bill C – 47, which is the Olympic and Paralympics Trademark Mark Act. Legislation that provides the Vancouver Olympic organizers with extreme power and domination over the symbols and language linked with the Olympics. I had been so careful designing these posters but it was too late to redo the posters in time for the show. I decided to hang them regardless of the "2010" copyright. Quite honestly I didn't think anyone would notice my work amongst the other three hundred art works. However when the night of the grad show came about there were crowds in front of my poster. Afterwards I received numerous calls and emails from the general public, galleries and the press, people had noticed.

The following week (March 19, 2007.) the Vancouver Sun reviewed four artists artwork from the grad show, my poster being one of them. Photos of each of my colleague's artwork appeared in the article, however mine was excluded. The Vancouver Sun must have been concerned about liability issues pertaining to the printing "Vancouver 2010". I wondered if VANOC would actually sue them for publishing an image of a student's artwork? I began to think about the larger questions at stake. What happens when a cultural event such as the Olympics has so much power that the Canadian Government prioritizes the profits of corporatism over civil liberties? In my opinion Bill C- 47 is a direct infringement of our Freedom of Expression under the Canadian Charter of Rights and Freedoms.

It is important to remember that the history of social commentary and political protest in art reaches back to the French Revolution and the birth of modernity, as art became a moral force within society. This is evident in the paintings of, Francisco De Goya's, *Third of May*, 1808, Theodore Gericault's, *Raft of Medusa*, 1819 and Eugene Delacroix's, *Liberty Leading the People*, 1830. These artworks are examples of how artists have created art to communicate social political statements.

Today contemporary artists of the 20th and 21st centuries are maintaining this tradition. There is a greater awareness of the social political struggles around the world and there is a proliferation of artists engaging in political and ideological struggles and communicating these ideas with a public audience. No age has concerned its self more with communication. (Lynton 2001) Some of the most critically effective artworks created in contemporary times have been Jasper John's 1950's series entitled *American Flag*, John's appropriated the iconic symbolic image of the American flag and transformed into a political critic. A Canadian artist of the same era Carl Beam combined found objects such as newspaper clippings and advertisements with painting as a way of incorporating the symbolism of popular culture. In this way a form of mass society folk art (Lynton 1980) turned into a social movement. The shifting social realities of the 1960' and 1970's, questioned the definition of art, art's place in the world and the artists

role within it. Andy Warhol accessed popular culture through appropriation of commercial media and advertising became an important method of social political comment on a wide range of contemporary issues. In Vancouver we have a number of emerging artists that are appropriating pop culture symbols and reconfiguring them into political artists. Sonny Assu's, *Cereal Boxes*, 2000, is a prime example of this approach to public art, which has the potential to appeal to a larger audience.

Another form of art that is less documented but can be found throughout history is "Street Art." This type of art refers to signs, posters, banners and any other form of creative expression used by artists to convey a particular cause or message. This form of art is reliant on easily identifiable symbols that a public audience can quickly identify at a glance. Its intention is to confront the viewer with clear statements through simple means. Generally this type of art is distributed through urban centers, posted on pillars, boards etc. There have been many artists such as John Lennon and Yoko Ono who paid to have their *WAR IS OVER*, 1969 poster's distributed commercially as a way of creating a crucial public forum. Another artist, Felix Gonzalez Torres, *Untitled*, 1991 Billboard displayed a photograph of an empty double bed with no words attached. "It spoke of love and absence", (Godfrey 1988.) The meaning the viewer derived was based upon his or her own experience. The meaning of this imagery for Gonzalez was to depict the loss of his lover from AIDS.

Throughout history artists have served a valuable role in our society for turning their art into a political weapon that questions and confronts the hegemonic power structures within our culture. This form of art is important as it offers the general public a place of engagement and a forum for discussion on relevant issues in contemporary society. Social political art is not only created as a personal response from the artist, it is a direct response to the viewers' culture and in this sense is a reflection of us.

Presently Canada's new federal trademark Bill C – 47, the Olympic and Paralympics Marks Act, is threatening this long, standing tradition of protest art. Many artists and cultural organizations are concerned that this bill will give VANOC the power to prohibit

appropriation and protest art.

So for a socio-political artist such as myself, Bill C-47 presents significant challenges. I decided more in-depth research was required to see how far this new bill extended to. An online search of the Canadian Intellectual Property Database revealed that many of the “Vancouver 2010”-type marks and logo designs that had been registered in the name of VANOC. They were registered under Sec. 9(1) (n) (iii), and constitute an "official" mark, which gives the registrant an even wider amount of protection than the usual trademark. During this process, I consulted with three lawyers, all specialists in copyright law, and the main issue appeared to be one of trademark infringement. Because “Vancouver 2010” was covered as a trademark, it didn't matter if I changed the number to words or any other variation; I was still exposing myself to a potential lawsuit. I was advised that if money was no object, I might be able to defend a claim on the basis of freedom of expression under the Canadian Charter of Rights and Freedoms, as well as more technical arguments that I was not "using" the trademark in such terms as is commonly understood in the case law surrounding trademarks. Namely, I wasn't selling any good or services and was distributing my posters free of charge. I might also argue that "depreciation of goodwill" is wrongly equated with lack of respect shown to a trademark. But apart from being very costly, it would take years, and would surely be appealed if lost at trial. One lawyer suggested that on a more practical level I might contact the President of VANOC directly and arrange a ten minute, personal meeting. I could find out their position and determine whether they would take legal action to prevent my proposed distribution of the posters. I decided to take this advice and contact VANOC.

After weeks of leaving messages and being passed to on to different people I had arranged an appointment with Colin Jarvis the manager of Commercial Rights Management. My intention of this meeting was to understand the complexities of the issues surrounding the new Bill C-47 and how it applies to my self and other artists. When I met with Mr. Jarvis he was very accommodating and open to answering all of my questions. He assured me that VANOC's position is that they are not interested in litigation with artists, that artists have a right to critique. He gave a number of examples

where VANOC would consider that an artist was infringing upon their copyright. Such as if an artist decided create a mug that depicted the Olympics in some way, if the artist produced one mug this would be fine because it's considered art, but if the artist produced 1000's mugs and sold a hundred a week for profit that would not be alright, as this would be considered ambush marketing. When discussing my posters, he said they would not have a problem with them. However, if I decided to put them up on bill boards all around the down town east side VANOC would have a problem with that because I would have then positioned the posters away from being considered "art" and into being a "campaign". So how do I know where the threshold is before I cross the boundary into creating illegal art?

One must consider that trends in public authority have been marked by the power structures that have been in place through out history. For example the origins of the copyright laws were first established when Gutenberg's printing press hit the world stage in 1450. Before then, the church and the crown controlled knowledge. With the advent of the printing press knowledge was diffused throughout communities and as a consequence literacy increased. As a result the traditional knowledge holders were threatened and imposed the Licensing Act of 1662, which established new legislation in Britain that required books to be registered and a copy deposited to the Stationers Company. Prior to this date the earliest consequence to reproducing a literary work was that you could sometimes find an author's or archivist's inscription within a book threatening a "book curse" if the manuscript was replicated. However the first real copyright law came into effect in 1710. The Statue of Anne accorded exclusive rights to creators and authors, as well as determining exclusive rights to a fixed period of expiration of twenty-eight years. In 1887 copyright protection amplified internationally with the Berne Convention, which continued to license intellectual property. A huge problem occurred in the 1730's when these registered copyrights began to expire and a great debate erupted over what rights, if any were still valid? This created the "natural rights debate". The Mansfield ruling established that publishers had the right to publish works that they had already acquired rights to. It was these origins that established the laws over knowledge and made clear definitions between "original works of art" and that of "industrial design." These laws

also determined any artwork that produced over one-hundred copies was no longer considered a work of art but was moved into the realm of industrial design. As a consequence “street art” which refers to signs, posters, and banners are considered to be part of the commercial advertising sector and are susceptible to copyright restrictions.

Although VANOC has no intention of shutting down artists who critique the Olympics, the Bill-C 47 is limiting artist's practicing appropriation and protest art. Artists will have to stay within the borders of the institutionalized gallery system. On the other hand, I don't see VANOC as being the villain in this scenario; rather it is the larger problem of our legal system prioritizing corporatism over creativity. What I have learned from this experience is that the copyright legislation being put in place today has not kept up with the changes that have occurred in the modern art world. Artwork that is being produced today has completely changed since the 1700's when the Statue of Anne was first established. Art is not static; it is a reflection of our contemporary culture and needs to be given space within the public sphere to be allowed to do its job, which is to create a crucial forum for public discussion. Ultimately reflecting our time and place in history.

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