

ART AS INFORMATION

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Thank you for that auspicious introduction. And thank you for asking those questions as they raise important issues, especially considering the monumental changes brought upon us by the information and technological age.

What I would like to do is actually go back in time, at least a little earlier in this century, and try to deal with one issue that is not a legal issue, but is one that we deal with and practice every day as curators and directors in a contemporary art environment. The discussion of these issues will not only raise questions with regard to the art of the new era, but will also have implications upon art law. I will begin by looking at modern art at the beginning of this century. I will also make occasional references to some more ancient ideas.

You see here a picture by René Magritte.¹ This painting depicts a picture window, so to speak. The interesting aspect about this portrait is that it refers to the archetypical idea of what the painting was for centuries, or at least since the 15th Century—which was a window into the world. The picture frame is the window and it divides the artwork (or the art object) from everything else. Magritte plays with this idea—this image. You can see through it, except when you open the window there is black behind it. He makes the painting even more ambiguous when you look at the left panel that is opened and partially transparent. Magritte is playing a visual or a type of “Etcheresque” game, which raises an interesting idea that the artist is now keenly aware of the tropes or conventions within formation of the artwork. He opens the window or door so as to begin to question them.

Over the course of this century, modern art has experienced a

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¹ See *René Magritte*, available at <http://www.mcs.csuhayward.edu/~malek/Surrealism/Magritte1.html> (last visited Apr. 6, 2001).

[Magritte was a] Belgian surrealist painter, born in Lessines. He studied at the Académie Royale des Beaux-Arts, Brussels. His first one-man exhibition was in Brussels in 1927. At that time, Magritte had already begun to paint in a style, closely akin to surrealism, that was predominant throughout his long career. A meticulous, skillful technician, he is noted for works that contain an extraordinary juxtaposition of ordinary objects or an unusual context that gives new meaning to familiar things.

Id.

series of innovations. These changes certainly do raise a lot of important questions, however these changes do not necessarily mean that art has progressed. Interestingly, the answers to many of these questions were just assumed by our predecessors. For example, no real object exists in digital art.² Rather, digital art is comprised solely of ones and zeroes. This highlights a central point—that art is the conveyance of information or the presentation of a sequence or narrative (similar to the use of words in a book). The distinction between the object and the symbolism behind the object is an issue that is dealt with on a daily basis at the Dia Center for the Arts (“Dia Center”).³

By contemporary standards, Piet Mondrian is considered a traditional painter.⁴ This painting is an object that sits on a wall. It is an abstraction referring to things we cannot see that perhaps signifies universal or internal concepts. Whether or not his work is a depiction—it is itself an object that resonates visually and has integrity.

Marcel Duchamp made a series of works called *Readymades* during the period of 1912 through the mid-1920s.⁵ The following

² See *Bachelor of Arts (Digital Arts)*, Australian Centre for Art and Technology, available at <http://www.anu.edu.au/ITA/ACAT/BADA/#> (last visited Apr. 17, 2001) (defining digital arts as “arts works produced using digital technology. This encompasses fields of activity such as computer animation, digital video, interactive media and computer music”); see also *Dia Center for the Arts*, available at <http://www.diacenter.org/dia/history.html> (last visited Apr. 6, 2001) (emphasizing that “[d]igital media . . . has become increasingly important in the visual arts as advances in computers and communications technologies have enabled artists to easily manipulate images, text, and sound, and to imagine distributing their work to the enormous audience suggested by the exponential growth of the internet”) [hereinafter *Dia Center*].

³ “For over twenty years, Dia Center for the Arts (formerly the Dia Art Foundation) has played a vital and original role among art institutions in New York, as well as nationally and internationally, by initiating, supporting, presenting, and preserving projects in nearly every artistic medium, and creating a primary locus for interdisciplinary art and criticism.” *Dia Center*, *supra* note 2.

⁴ See *Mondrian Piet*, available at <http://titan.glo.be/~gd30144/mondrian.html> (last visited Apr. 6, 2001).

In the early 1900s many artists tried various abstract ways of representing reality. Mondrian went beyond them. In his final compositions he avoided any suggestion of reproducing the material world. Instead using horizontal and vertical black lines that outline blocks of pure white, red, blue or yellow, he expressed his conception of ultimate harmony and equilibrium. . . . His style, and its underlying artistic principles, he called neoplasticism.

Id.

⁵ See *Marcel Duchamp*, available at <http://www.peak.org/~dadaist/English/Graphics/duchamp.html> (last visited Apr. 6, 2001). Marcel Duchamp was born on July 28, 1887, in Blainville, near Rouen, France. Duchamp’s “*Readymades* were banal objects of every-day use such as a bottle holder, a snow-shovel, etc., which he signed with his name after giving them titles totally unconnected with their functional use. . . . The *Readymades* demonstrated his profound contempt for the bourgeois conception of art.” *Id.*; see also *Marcel Duchamp’s Fountain*, available at <http://www.geocities.com/Paris/8111/fountain.htm> (last visited Apr. 17, 2001).

is a picture of a shovel, which Duchamp calls *In Advance of a Broken Arm*. No one has exactly figured out the relationship between the title and the object, nonetheless you certainly could not separate the object from the understanding of what the artist has done. Otherwise, if you saw this work in a museum you would be totally confused. You would wonder whether it was the design of the shovel that was interesting or whether its placement was the essential ingredient.

Duchamp’s *Readymades* pose the question: What is the art object. Duchamp has been credited with the essential notion that a thing is an artwork because the artist declares it to be so. The artist puts the work into context, fits it into history, and causes a commotion. The artist’s intention is paramount in understanding the work as a gesture. Therefore, we derive a simple principle that the object itself isn’t sufficient to describe works of art, which are comprised of both gesture and the gesture of choice and information. As such, maybe artwork is not that different from a narrative or biblical painting, which requires an understanding of outside sources, e.g., the biblical text.

The following is another one of Duchamp’s *Readymades*. “*Fountain* was an ordinary urinal, signed by the artist and displayed upside down. Duchamp offered his work anonymously under the name ‘R. Mutt.’”⁶ Made in 1917, *Fountain* caused a stir when it was submitted for exhibition at an art exposition given by The Society of Independent Artists in New York City.⁷ Alfred Stieglitz photographed *Fountain* after it was rejected by the Executive Committee of the Society of Independent Artists.⁸ Duchamp then had Italian sculptors make the work into terra cotta sculptures.⁹ Duchamp was very interested in their sculptural qualities. He later sold many of these sculptures. Notably, Duchamp not only took the object into an art context (the photograph), but then he put it back (sculpture).

⁶ *Procedures of Translation: Duchamp’s Fountain and Brecht’s Alienation Effect*, available at <http://simsim.rug.ac.be/schöle/aboufo3.html> (last visited Apr. 17, 2001). “‘R. Mutt’ or ‘Richard Mutt’ is believed to be a pseudonym of Marcel Duchamp composed out of an association with the Mutt and Jeff cartoons. Apparently there was no actual R. Mutt.” Michael Betancourt, *The Richard Mutt Case: Looking For Marcel Duchamp’s Fountain*, available at <http://www.marcelduchamp.net/dlinks/betancourt.htm> (last visited Apr. 17, 2001).

⁷ See *R. Mutt (a.k.a. Marcel Duchamp) Fountain [the urinal], 1917 Refused from the American Society of Independent Artists inaugural non-juried exhibition New York*, available at <http://www.plugin.org/disarm/archive.hun#Mutt> (last visited Apr. 17, 2001).

⁸ See Betancourt, *supra* note 6.

⁹ See Mike Bidlo, *Exhibition Project: Not Duchamp’s Bottle Rack, 1914, 2000*, available at <http://www.chesterspringsstudio.org/exhibitions/reenactment/bidlo.html> (last visited Apr. 17, 2001).

Duchamp questions the concept of the object in many different ways. For example, the following work is Duchamp's famous *Box in a Valise*, comprised of a Louis Vuitton suitcase that originally belonged to Peggy Guggenheim.¹⁰ "Once the whole box is set up—with all the pullouts open, it becomes a portable museum—a retrospective exhibition of Marcel's work."¹¹ He made this work for Peggy Guggenheim so she could hold all of his ideas. The implication being that by going through this object you could get Duchamp's ideas, the content of his work, and his thoughts. Another of Duchamp's works, which he called *Green Box*, is actually just a series of notes. Again, this emphasizes the recurring theme of this discussion, namely, that the object isn't sufficient, and was never adequate enough to define the thing we call art.

DuChamp was also notable in his appropriation of other artists. Made in 1919, Duchamp's *L.H.O.O.Q.* is a "corrected Ready-made" from a photograph of Leonardo da Vinci's famous *Mona Lisa* by adding in pencil a mustache and goatee.¹² The Dada gesture, which is perhaps an anti-institutional gesture, is playful and defacing.¹³ Duchamp takes this image and makes it something else. No one would mistake this for the *Mona Lisa*, as the gesture is that important. The artist's appropriation and alterations transform the work into another piece altogether.¹⁴

This painting is by Roy Lichtenstein, a pop artist.¹⁵ Similar to

¹⁰ See MoMA, available at http://www.moma.org/exhibitions/muse/artist_pages/duchamp_boite.html (last visited Apr. 17, 2001).

Duchamp's *Boîte-en-valise*, or box in a suitcase, is a portable miniature monograph including sixty-nine reproductions of the artist's own work. Between 1935 and 1940, he created a deluxe edition of twenty boxes, each in a brown leather carrying case but with slight variations in design and content. A later edition consisting of six different series was created during the 1950s and 1960s; these eliminated the suitcase, used different colored fabrics for the cover, and altered the number of items inside. Each box unfolds to reveal pull-out frames displaying *Nude Descending a Staircase* and other works, diminutive Readymades hung in a vertical 'gallery,' and loose prints mounted on paper. Duchamp included in each deluxe box one 'original.'

Id.

¹¹ *Duchamp Art Minimal & Conceptual Only*, available at <http://members.aol.com/mindwebart3/marcelpg3.htm> (last visited Apr. 17, 2001) (displaying the work of art).

¹² See *Duchamp Art Minimal & Conceptual Only*, available at <http://members.aol.com/mindwebart3/marcelpg2.htm> (last visited Apr. 17, 2001) (displaying the work of art).

¹³ Dada can be defined as a "western European artistic and literary movement (1916-1923) that sought the discovery of authentic reality through the abolition of traditional culture and aesthetic forms." *Web Museum: Dada*, available at <http://www.oir.ucf.edu/wm/paint/glo/dada> (last visited Apr. 17, 2001).

¹⁴ Notably, "Duchamp's boxes, along with his altered *Mona Lisa*, address museum's ever increasing traffic in reproductions and question the relative importance of the original 'work' of art." MoMA, *supra* note 10.

¹⁵ See *Roy Lichtenstein*, available at <http://www.fi.muni.cz/~toms/PopArt/Biographies/lichtenstein.html> (last visited Apr. 17, 2001) (providing a brief biographical description of Roy Lichtenstein).

DuChamp, Lichtenstein in 1960, took the *Mona Lisa* and defaced it. Lichtenstein's copy, which perhaps pays homage to the original, is much bigger than the original *Mona Lisa*, and although you are unable to visualize the scale here, you would never mistake it for the original.

Pop artists saw as their domain all the world of images and objects. The world of images includes regular objects, objects of media,¹⁶ and merely everyday things.

This next piece of artwork is a Giant BLT (Bacon, Lettuce and Tomato Sandwich) by the artist Claes Oldenburg.¹⁷ There are certainly no copyright issues on this piece. Oldenburg's story regarding the nature of his work is quite interesting. He said that museums do not understand his "soft sculptures."¹⁸ In fact, his intentions were to have his sculptures look this way. Many museums believed that the sculptures were not supposed to be droopy and soft, and as a result they would go around puffing up the sculptures. Oldenburg's work clearly illustrates the interdependency between an artist's intention and his work.

By today's standards Jackson Pollock is a traditional artist.¹⁹ In his paintings, Pollock's gestures appear to be radical. Nevertheless, he is still painting on canvas. The next generation of artists came to admire Pollock's style of painting. However, a famous image of Pollock in *Life* magazine was perhaps more influential than his

¹⁶ In 1964, Andy Warhol painted the portrait of famous pop icon, Marilyn Monroe. See *Marilyn, 1964*, available at <http://imv.aau.dk/~jfogde/gallery/art/12.html> (last visited Apr. 17, 2001) (displaying the portrait of Marilyn Monroe). "Andy Warhol transformed contemporary art. Employing mass-production techniques to create works. Warhol challenged preconceived notions about the nature of art and erased traditional distinctions between fine art and popular culture." *The Warhol Collections*, available at <http://www.warhol.org/collections/index.html> (last visited Apr. 17, 2001).

¹⁷ See *Claes Oldenburg*, available at <http://www.fi.muni.cz/~toms/PopArt/Biographies/oldenburg.html> (last visited Apr. 17, 2001) (providing a brief biographical description of Claes Oldenburg).

¹⁸ Oldenburg also presented new styles such as "happenings," a new art form that combined props, sound, motion, and audience participation. From the props he made the first "soft sculpture," made of stuffed vinyl and canvas, sewed by his wife. These sculptures were rigid objects such as typewriters, drums, plumbing, and electrical plugs. These sculptures were drooping forms whose precise shapes depended on gravity and being touched. See *Claes Oldenburg*, available at <http://www.ben.esu6.k12.ne.us/ite/oldenburg/default.html> (last visited Apr. 17, 2001).

¹⁹ See *Jackson Pollock*, available at <http://notes.cc.sunysb.edu/CAS/PKHouse.nsf/webform/pollock> (last visited Apr. 17, 2001) (providing a biographical description of Jackson Pollock). But see *An Homage to Jackson Pollock*, available at <http://www.hilson.org/NW/pollock.htm> (last visited Apr. 18, 2001) (describing Pollock's works as "absolutely outlandish. Totally counter to all of the social pressure which surrounded him"). Friend and fellow artist, named Alfonso Ossorio, described Pollock as "a man who had broken all the traditions of the past and unified them, who had gone beyond cubism, beyond Picasso and surrealism, beyond everything that had happened in art . . ." *Pollock: The Artist*, available at <http://www.nga.gov/feature/pollock/artist2.html> (last visited Apr. 18, 2001).

paintings themselves.²⁰ It is an image of Pollock in free movement and expression—he is pictured standing on his canvas while making one of his famous paintings.²¹

Many artists, influenced by Pollock, have concluded that the essential nature of art is the gesture and not the object. In the late 1960s, an artist by the name of Michael Heizer, a resident of Nevada, decided to make a work in the mold of Jackson Pollock.²² Heizer's canvas is the Nevada desert. Using his motorcycle, he draws these beautiful curves into the landscape.²³ The work must be viewed from the sky in order to get the beauty of his drawing on the landscape. Heizer demonstrates that the boundaries of the museum have been dissipated.²⁴ He has even thrown away the boundaries associated with the notion of an audience.

Heizer's drawing, which can only be viewed faintly for a short while, will eventually disappear and exists only through an heroic photograph. Through the photograph and its transmission through our media culture, you get the idea of the work's heroic gesture. This beautiful, big drawing in the desert is understood not only by the object itself (which very few people actually saw), but also by the photograph of the object and its accompanying doc-

²⁰ "1949 *Life Magazine* asked whether Jackson Pollock was the greatest living painter in the United States, its answer set the tone for the reception of modern abstract art by mainstream American culture: The celebrity of the artist becomes newsworthy primarily because of the seeming incoherence of his art." Thomas Augst, *Drooled, Dribbled, Scrawled and Scooped*, available at <http://bookwire.bowker.com/bookinfo/review.aspx?5946> (last visited Apr. 18, 2001).

²¹ See *NGA Pollack Feature*, available at <http://www.nga.gov/feature/pollock/process1.html> (last visited Apr. 18, 2001) (depicting Pollock as he makes a piece while standing on the canvas).

²² See *Monument And Environment The Avant-Garde, 1966-1976*, available at <http://www.rodencrater.org/spaces/contemp/1.htm> (last visited Apr. 18, 2001). Heizer had a high sense of mission for his sculpture . . . he felt that sculpture needed to express the character and scale of the great western landscapes . . . he felt that art needed to look new, nonconformist, and not at all complacent. Further, it had to shake its dependence on European models, those refined objects in the tradition of Rodin and Brancusi that seemed to be exhaling their last grasp in the form of Minimalist sculpture. Heizer's antidote was to throw off nearly all the conventions of recent three-dimensional art in favor of environmental projects.

Id.

²³ This type of work is commonly referred to as "land art," or "earth art." See *Earth Art and Earthworks*, available at <http://www.artlex.com/ArtLex/e/earthart.html> (last visited Apr. 18, 2001). "Earth art refers to a movement of artists with wide ranging goals, but all created in nature, employing such materials as stones, dirt, and leaves." *Id.*

²⁴ See *id.*

During the late 1960s and early 1970s art began to move outdoors from galleries. Some earthworks have been small enough to be gallery pieces, but many involve huge land masses, as did Michael Heizer's *Nine Nevada Depressions*, 1968: big, curved and zigzagging trenches, like abstract doodles on the earth, placed intermittently over a span of 520 miles.

Id.

umentation. Perhaps that work doesn't even exist to be collected. Rather, the work is merely describing a gesture that happened in the past.

Heizer went on to make other uncollectible works.²⁵ This one is called the *Double Negative* and is owned by the Los Angeles Museum of Contemporary Art.²⁶ This work consists of "a 1,500-foot incision on the edge of a mesa 80 miles from Las Vegas."²⁷ These two cuts in the mesa form a block, albeit an invisible one using negative space, hence the title of *Double Negative*. To give you a sense of scale, if you laid down the Empire State Building it would fit sideways in that negative space. Heizer is fascinated by this heroic image of space and scale.

Double Negative is a work that you can actually go see. It has a problem though—that it will eventually deteriorate. As such, it is interesting to think about the work as an object that is both collectible and uncollectible. Notably, Heizer felt that the work should enter a museum collection to illustrate the paradox of whether or not it was an object.

Spiral Jetty, created by Robert Smithson in 1970, is another famous image that questions the confines of the art object.²⁸ Smithson made a jetty out of rock located on the Great Salt Lake in Utah.²⁹ The work takes a beautiful and incredible form. It is quite unique because the work is often hidden underwater and can only

²⁵ The speaker's use of the word "uncollectible" refers to a work that is temporary in nature, e.g., Heizer's work involving drawing with a motorcycle in the Nevada desert.

²⁶ See *Rend(er)ing: From Double Negative*, available at <http://www.williams.edu/mtaylor/textdir/doubleneg/> (last visited Apr. 18, 2001) (displaying the picture of *Double Negative* and describing the work as one of the "most influential of the monumental 'earthworks' sculptures in and of the land"); see also *Cite by Michael Heizer*, available at <http://www.diacenter.org/ltproj/city/> (last visited Apr. 18, 2001) (noting that the *Double Negative* is "often described as the seminal first work on the Land Art Movement").

²⁷ See *Rend(er)ing: From Double Negative*, available at <http://www.williams.edu/mtaylor/textdir/doubleneg/> (last visited Apr. 18, 2001).

²⁸ See *The Spiral Jetty*, available at <http://www.diacenter.org/ltproj/spiraljetty/> (last visited Apr. 18, 2001) (providing picture of *Spiral Jetty*); see also *Robert Smithson*, available at <http://www.robertsmithson.com/introduction/introduction.htm> (last visited Apr. 18, 2001). Smithson has been described as:

one of the most influential and original artists whose voice has a major impact on artists of his generation, and continues to do so today. . . . He was one of the founders of the art form known as artworks or land art. . . . Dissatisfied with the status quo, Smithson did not limit himself to any one form of art or style of art. He moved beyond modernism's hermetic tendencies by abandoning formalism, rules and traditional art materials. Smithson's oeuvre, as an artist and writer, defied convention and produced works that could not easily be categorized.

Id.

²⁹ Smithson's monumental earthwork *Spiral Jetty* is located on the Great Salt Lake in Utah. Using black basalt rocks and earth from the site, the artist created a coil 1500 feet long and fifteen feet wide that stretches out counterclockwise into the translucent red water. See *The Spiral Jetty*, *supra* note 28.

be viewed when the lake's water level is low.³⁰ *Spiral Jetty* is currently six feet underwater. Notably, when the work rises, the lake's evaporation facilitates the formation of beautiful white salt crystals upon the work. The piece "embodied one of [Smithson's] goals, which was to place work in the land rather than situated on the land."³¹

Interestingly, and making it even more paradoxical, Smithson wrote an article about the work, made a film about the work,³² and eventually abandoned the work. He called all three gestures individual works of art: the piece, the article, and the film. This demonstrates that each of these pieces represented a portion of a larger endeavor.

Smithson's Estate recently gifted *Spiral Jetty* to the Dia Center. So, yet again, this work is in a collection. "The acquisition of this piece continues Dia's longstanding support of major earthworks."³³ Notably, the Dia Center does not even own the work's land as it is leased from the federal government. The Dia Center leases the surface rights, which is similar to buying a lease to go fishing or digging for oil.

Another work that the Dia Center owns is *The Lightning Field*, by Walter De Maria.³⁴ This work is depicted on the cover of Robert Hughes' book, *American Visions: The Epic History of Art in America*.³⁵ The Dia Center owns a twenty square mile ranch, located in an isolated portion of the desert in New Mexico, upon which 400 stainless steel poles in a grid, a mile by a kilometer, harness the light of the sky. "*The Lightning Field* is an elaborately wrought installation that becomes glorious for a split second when the slanting rays of [a] departing or rising sun illuminate the poles in a sequence across the field, so fleeting that one wonders if it were a mirage."³⁶ Notably, the poles also act as lightning rods. When

³⁰ See *id.* (noting that the *Spiral Jetty* has been "submerged . . . for most of its existence. Realizing, after its completion, that he had built it at a time when the level of the lake was naturally low, Smithson considered adding further material to ensure that his artwork would be visible more often. As yet this has not been done.")

³¹ Robert Smithson, *supra* note 28.

³² The speaker notes that the red water, created by the red algae, implies a narrative, which he explored during parts of this film. See *Films*, available at <http://www.robertsmithson.com/films/films.htm> (last visited Apr. 18, 2001) (providing video excerpts of *Spiral Jetty* (1970)).

³³ See *Spiral Jetty Press Release*, available at <http://www.diacenter.org/dia/press/spiral.html> (last visited Apr. 18, 2001).

³⁴ See *Lightning Field*, available at <http://www.diacenter.org/lproj/lf/lf.html> (last visited Apr. 18, 2001).

³⁵ See ROBERT HUGHES, *AMERICAN VISIONS: THE EPIC HISTORY OF ART IN AMERICA* (New York, 1997).

³⁶ *Lightning Field*, *supra* note 34.

there is lightning, the poles harness the light from the sky into a magnificent light sculpture.

As mentioned earlier, the Dia Center owns a ranch. Additionally, we have a lease. One of my jobs as Director of the Dia Center is to sign the grazing leases every year. This has been a really important issue recently because ranchers in the area have threatened to sell their property to developers, as the ranching business has not been profitable. Accordingly, this puts the Dia Center in an awkward position since this work is to remain true to its spirit, existing in a barren landscape where you can actually measure yourself in relation to the open space. Therefore, the Dia Center must start buying these lands, or alternatively, obtaining conservation easements from the Government.

James Turrell, an artist from Arizona, is working on a volcanic crater that the Dia Center partly leases and partly owns.³⁷ Turrell is making a work of art that deals with the sky. Again, an artist is dealing with something that is outside the traditional context of an object. Thus, James Turrell's work is objectless.

This is an image of a 1968 Turrell work, *Orca*.³⁸ The image looks like a cube, but is actually just a projection into the corner of a wall. Instructions are given on how to project the work, which can then be installed for approximately \$175,000. Once again, this questions the definition of the art object.

A series of artists from the 1960s and 1970s brought radical ideas into the museum, especially their differing notion of the art object. While I was working at the Guggenheim Museum, they acquired a collection of works from Italy. I then conducted a series of interviews with the artists to determine how to handle their work. Interestingly, the artists gave very differing responses when asked to provide a definition of the art object and to describe the consequences to their work if it were to be damaged.

Notably, Turrell's work was easy to repair because if it were to be damaged, it could easily be reprojected. Carl Andre, whose work consists primarily of metal on a floor, said his works can be replaced, if destroyed, so long as the piece is documented as it can then be returned to its natural form.³⁹ Andre's work can then exist

³⁷ See *Roden Crater*, available at <http://www.rodencrater.org/intro2.htm> (last visited Apr. 18, 2001). Turrell began his career in the "early 1960s as one of the leaders of a new group of artists working with light and space. His artworks make manifest the physical presence of light and heighten our visual perception." *Id.*

³⁸ See *James Turrell*, available at http://www.eyestorm.com/feature/ED2n_article.asp?article_id=20&artist_id=7 (last visited Apr. 18, 2001) (displaying Turrell's *Orca*).

³⁹ See *Andre, Carl*, available at <http://citd.scar.utoronto.ca/VPAA61/ARTISTS/Andre.C.html> (last visited Apr. 18, 2001) (providing that Carl Andre worked primarily with

in time, space, and history.

Dan Flavin, an artist who created his work entirely with colored fluorescent lights, considered the lights real objects and felt that they should not be altered unless they absolutely needed to be fixed.⁴⁰ Notably, both the arrangement and the impact of the light could not be mistaken for anything besides art. Robert Morris, another artist who makes minimal forms, said that when a piece is damaged it must be absolutely rebuilt, as the work no longer exists without its pristine geometric form.⁴¹ As a result, when Morris's work was damaged, the Dia Center threw away the originals and had it rebuilt.

Donald Judd, an artist whose installation is currently on display at the Dia Center, makes most of his works out of plywood.⁴² He is very interested in the transformative quality of industrial materials, including both raw and workman-like materials. In Judd's 1976 work called *Untitled*, he arranged "fifteen variations on a box three feet tall and five feet wide, made from 5/8-inch-thick sheets of the finest grade Douglas-fir plywood."⁴³ Notably, Judd was involved in a huge legal controversy in which he threatened to sue the Guggenheim Museum. Some of Judd's works, which were obtained by the Museum, needed to be rebuilt. Judd required that these works only be built under his supervision, even though Judd signed a contract giving these rights to the Guggenheim.⁴⁴

Joseph Kosuth, another artist from that same generation, philosophically poses the question of what is or is not an object, or

floor space). Andre "used industrially produced elements (bricks, styrofoam blocks, metal sheets) to 'squeeze' the space and make the viewer more sensitive to the architectural space around him/her." *Id.*

⁴⁰ See *Flavin Essay*, available at <http://www.diacenter.org/exhibs/flavin/essay.html> (last visited Apr. 18, 2001). By 1963, Flavin had come to eschew any form of painting or collage in favor of simple, unadorned, commercially produced fluorescent light fixtures and tubes, and has worked exclusively in that medium ever since. See *id.*

⁴¹ See *Morris, Robert*, available at <http://citd.scar.utoronto.ca/VPAA61/ARTISTS/Morris.R.html> (last visited Apr. 18, 2001). "Morris was involved in the ideas arising from the questions posed by Duchamp's work," [which] led him through Minimalism and into Conceptual art." *Id.* "Minimalism" can be defined as "schools of contemporary art and music, with their origins in the 1960s, that have emphasized simplicity and objectivity." *The Columbia Encyclopedia, Sixth Edition, 2001*, available at <http://www.bartleby.com/65/mini/minimal.html> (last visited Apr. 18, 2001).

⁴² See *Donald Judd: Untitled, 1976*, available at <http://diacenter.org/exhibs/judd/index.html> (last visited Apr. 18, 2001).

⁴³ *Id.* (displaying Judd's work *Untitled*). Each of these fifteen boxes had a different variation in structure. The work *Untitled* exemplifies "Judd's ability to produce exquisitely complex results by combining essential geometry and common industrial materials." *Untitled, 1976 Press Release*, available at <http://www.diacenter.org/dia/press/judd.html> (last visited Apr. 18, 2001).

⁴⁴ The speaker notes that these types of controversies still exist. Additionally, when the speaker was still working at the Guggenheim, its policy was to give as much deference to the artist's work as possible.

the meaning of art, through his piece, entitled *Three Chairs*⁴⁵—which pictures a chair and a definition of chair. Interestingly, this generation of artists from the late 1960s and 1970s raised all these types of questions. I don't think it was just coincidental that Professor John Henry Merryman's work also came out at that same time. In fact, that period exemplifies the incredible awareness, in all disciplines including art, philosophy, and law, of intellectual property issues. Namely, the nature of the "object"—including its elusive definition and how the object is dealt with both under the law or in an art museum.

One of my favorite artists, Lawrence Weiner, pushed conceptual art to its edges.⁴⁶ His art consists of words arranged, affixed, or painted on a wall.⁴⁷ Weiner's work has no storage requirement. Some art collectors preferred conceptual works, as there was no customs tax for importing a mere conceptual idea. Once again, this questions the confines of the art object. Unquestionably, however, this is art as it can be put up, moved, and taken down.

The next generation of artists from the 1980s and 1990s took these principles for granted. Today this is all taken for granted. It is perfectly acceptable today for artists to move their works beyond museum walls. Ann Hamilton's work, which was displayed at the Dia Center for one year, illustrates this point.⁴⁸ She created a work using horse hair covering 8,000 square feet of floor. Hamilton molded the floor into curves, and while the work was exhibited at the Dia Center, a woman sat at a table and burned words out of a book.⁴⁹ You could actually smell the fire and the horse-hair, and

⁴⁵ See *About the Visual Resources Collection*, available at <http://www.vrc.iastate.edu/about.html> (last visited Apr. 18, 2001) (displaying the work); see also *Richard Gray Gallery*, available at <http://www.richardgraygallery.com/artist.asp?aID=64> (last visited Apr. 18, 2001). Kosuth is considered an "[a]merican experimental artist . . . a leading advocate of experimental art. His work is reflective of the relationship of language and art concepts." *Id.*

⁴⁶ See *Lawrence Weiner: Displacement*, available at <http://diacenter.org/exhibs/weiner/weiner.html> (last visited Apr. 18, 2001). "Conceptual Art" can be defined as "[a]rt that is intended to convey an idea or a concept to the perceiver, rejecting the creation or appreciation of a traditional art object such as painting or a sculpture as a precious commodity. Conceptual art emerged as a movement in the 1960s." *ArtLex's Con Page*, available at <http://www.artlex.com/ArtLex/Con.html> (last visited Apr. 18, 2001).

⁴⁷ See, e.g., *Images from Lawrence Weiner: Displacement*, available at <http://diacenter.org/exhibs/weiner/images.html> (last visited Apr. 18, 2001) (displaying images from Weiner's work called *Displacement*).

⁴⁸ Hamilton entitled her Dia Center Exhibition *tropos*. See *Lynne Cooke, Hamilton Essay*, available at <http://www.diacenter.org/exhibs/hamilton/essay.html> (last visited Apr. 18, 2001). This work "relates to the concept of 'tropism,' which may be defined as a natural inborn inclination, an innate tendency to react in a definite manner towards stimuli, exemplified in the behavior of plants when they bend towards the source of light." *Id.*

⁴⁹ See <http://www.diacenter.org/exhibs/hamilton/ham4.jpg> (last visited May 23, 2001) (displaying this work).

feel the molding of the floor. Incredibly, the exhibition was able to charge the viewer's senses, and she was able to create this sensation in a theatrical context. Hamilton's work is an actual object that could have been bought. However, for this particular work, she decided it would only be displayed, and not purchasable.

Here are some other instances of artists breaking down museum walls. Janet Holzer displayed the words *Protect Me From What I Want* on a Caesar's Palace marquee in Las Vegas, Nevada.⁵⁰ Another artist, Sherry Levine created a series of works in the later 1980s that could have quite possibly been mistaken for a work by the influential Walker Evans.⁵¹ Levine created a self-portrait as a Walker Evans photograph. In the right context, there is no question that the painting is a Walker Evans. However, Levine's work is new. The museum, in essence, serves as the frame for that understanding.

I would now like to discuss some of these issues and relate them to media art. Douglas Gordon and Stan Douglas both use film video as their medium and both have exhibits at the Dia Center.⁵² The work entitled *Double Vision* is a juxtaposition of two videos, made by each of these two artists, which were actually made independent of each other.⁵³ On top, Stan Douglas creates his own medium. The following is a still from a video piece that repeats itself every six minutes. However, the cuts are different each time, as each cuts depicts the actor doing the same thing but from

⁵⁰ See http://www.hoammuseum.org/english/moden/ecub_8.html (last visited Apr. 18, 2001) (describing Holzer artistically and noting that "she adopted an active strategy [of communication], avoiding the display of her works in exhibitions and instead allowing the work to come into contact with an unspecified audience in public places").

⁵¹ See *Sherrie Levine*, available at http://www.walkerart.org/resources/res_pc_levine.html (last visited Apr. 18, 2001). It should be noted that:

Levine has made a career out of re-using, or appropriating, famous works of art, often by making new versions of them and placing them in different contexts. Throughout her career, Levine has created art based on works by prominent male artists from the early 20th Century in order to underscore the relative absence of women in the art world at that time. In addition to Duchamp, her sources include Walker Evans's photographs . . .

Id. Walker Evans can be considered "as one of the most influential modernists of the twentieth century." *Walker Evans at SFMOMA*, available at <http://www.tfaoi.com/aa/1aa/1aa670.htm> (last visited Apr. 18, 2001).

⁵² See *Double Vision: Stan Douglas and Douglas Gordon*, available at <http://www.diacenter.org/exhibs/doublevision/index.html> (last visited Apr. 18, 2001) (providing a brief biographical description of these artists).

⁵³ Stan's work is located directly above Douglas's work. The juxtaposition of these two works "reveal surprising correspondences with one another, while simultaneously permitting each artist's singular concerns to emerge sharply." *Id.* "These works were conceived independently, without consultation. Each artist has . . . been keenly aware of the other's practice, not least because they have often found themselves participating in the same group shows." *Double Vision Essay*, available at <http://www.diacenter.org/exhibs/doublevision/essay.html> (last visited Apr. 18, 2001).

a different perspective. I believe Stan made an estimated 2,400 possible combinations of these cuts.

The image on the bottom is a work by Douglas Gordon. This work, which is a kind of "film noir" image,⁵⁴ was made by appropriating a little-known film made in 1949 by Hollywood director Otto Preminger entitled *Whirlpool*. Douglas took odd frames and even frames and pulled them apart into two separate films. This causes the films to flicker as they are missing one image. As a result, two films are shown flickering. In his work, Gordon completely lifted the Otto Preminger film, and then manipulated it.

Since 1994, the Dia Center has been a pioneer in soliciting artists to create works of art on the Internet. The use of the Internet can be quite beneficial as it completely eliminates shipping costs and, at the same, the artist can still receive payment for his works.

The following work was created by the Russian emigrant artist team, Vitaly Komar and Alex Melamid.⁵⁵ This project consisted of a global market research survey detailing people's aesthetic preferences and taste in paintings. In the United States, people were asked to provide their favorite color. The resounding answer was blue, green came in second, and red in third.⁵⁶ The artists performed this survey in fourteen different countries with assistance from the Dia Center.⁵⁷ The data compiled from this market research was later posted on the Internet. The survey was shown at Duke University as an exhibition, which we permitted them to view over the Internet. This demonstrates that even market survey can be a work of art—not just the questions, but also the activity of the survey and its results.

Additionally, Komar and Melamid made images, which were formed by the results of their survey. For example, with the information compiled from responses to their questions, they made for each country surveyed a "Most Wanted" and "Least Wanted" painting.⁵⁸ The most wanted painting in the United States depicts a

⁵⁴ "Film noir" can be described as "a style of American films that evolved in the 1940s, and lasted in a classic period until about 1960. . . Film noir is a distinct branch of the crime/gangster sagas from the 1930s but different in tone and characterization. . . Strictly speaking however, film noir is not a genre, but rather the mood or tone of a film." *Film Noir Films*, available at <http://www.filmsite.org/filmnoir.html> (last visited Apr. 18, 2001).

⁵⁵ See *Director's Introduction to The Most Wanted Paintings on the Web*, available at <http://www.diacenter.org/km/intro.html> (last visited Apr. 18, 2001) (providing a detailed description of the survey).

⁵⁶ See *The Survey Results*, available at <http://www.diacenter.org/km/surveyresults.html> (last visited Apr. 18, 2001) (displaying results of the survey).

⁵⁷ See *id.*

⁵⁸ See *The Most and Least Wanted Painting*, available at <http://www.diacenter.org/km/>

Hudson River-like landscape, with lots of the color blue and green. It also has wildlife as you can see the deer. The work contains children walking along the shore, and historical figures, such as George Washington. Also, the painting is the size of a dishwasher.⁵⁹

In contrast, the least wanted painting in the United States is the size of a paperback and appears similar to the modern images displayed earlier. The results of the survey and these most and least wanted pictures are available on the Internet.⁶⁰ Again, I would just like to emphasize that the ensemble of all this information is in fact art.

A work termed *Do You Want Love Or Lust?* is another Internet project that the Dia Center is involved with. The work is by Claude Closky, a French artist, and compiles a series of questions taken from popular magazines, quizzes, ads, and billboards.⁶¹ This questionnaire, which is posted on the Internet, and therefore available twenty-four hours a day, supplies an endless series of questions. This piece is quite interesting and actually helps you to learn something about yourself.

The following is another Internet project called *The Thief*, by Frances Alys.⁶² This work depicts a screen saver accessible on the Internet. This image is a little video vignette and it exists only in electronic form. Interestingly, this figure refers back to Magritte's renaissance window.⁶³

I would just like to point out that even the Dia Center's new designs and renovations question the confines of the art object. An artist by the name of Jorge Pardo is currently redesigning the entire ground floor of the Museum with 8,000 square feet of Mexican tile, which consists of eight different colors, and is made in Guadalajara.⁶⁴ The artist is not only constructing the entrance into a form of art, but also the admissions desk, the lockers, and the bookstore. The renovations are being made to the entire ground floor so that the second you walk into the building and step onto

painting.html (last visited Apr. 18, 2001) (depicting most wanted and least wanted paintings for over twelve different countries).

⁵⁹ See *id.*

⁶⁰ See *id.*

⁶¹ See Lynne Cooke, *Introduction to Claude Closky's Do you want love or lust?*, available at <http://www.diacenter.org/closky/intro.html> (last visited Apr. 18, 2001).

⁶² See *Dia Artists' Web Projects*, available at <http://www.diacenter.org/rooftop/webproj/index.html> (last visited Apr. 18, 2001) (supplying more information on Alys's *The Thief*).

⁶³ See *supra* note 1, and accompanying text.

⁶⁴ "Pardo has completely transformed Dia's 9,000 square-foot first floor in a complex, multifaceted project . . ." *Jorge Pardo: Project*, available at <http://www.diacenter.org/exhibs/pardo/index.html> (last visited Apr. 18, 2001).

those tiles, the viewer experiences the artwork. Thus, even the Dia Center's building questions the limits of the museum and the art object.

The last image I am going to be showing today is called *This Equals That*, by Richard Serra.⁶⁵ In 1979, Serra was commissioned by Governor William Milliken to make a piece in front of the state house in Lansing, Michigan. During the 1990s, the work needed to be repaired. A decision was then made to replace the concrete base with grass and to have the sidewalk repaired. As it turns out, these proposed changes would have destroyed the artist's work. The Dia Center is currently fighting for a different set of changes. Alternatively, the Dia Center has suggested that the work be destroyed or removed, as the piece in its current damaged state (or under the above-mentioned proposed changes), is clearly not Serra's work of art.

I would just like to conclude by saying that the idea of the object is not a clear one, however, one thing is for sure: it is not defined by its physical characteristics. Millions of dollars have been spent over the years to preserve and protect art. Works of art are being made out of land, digital media and with new technologies. Accordingly, artwork can be made in endless ways. To understand the nature of the art object we have to look back at history. With regard to the questions that were asked today, I believe that we do not understand the last thirty years, or even the last ninety years in art history. However, with a better grasp of history, we will all be more effective in dealing with these issues in the future.

⁶⁵ The speaker compares this work to pieces made by Michael Heizer. See generally *supra* notes 22-27 and accompanying text.