

■ Book Review

Ted Striphas

FREEDOM OF EXPRESSION™

Kembrew McLeod, *Owning Culture: Authorship, Ownership, and Intellectual Property Law* (New York, Washington, D.C./Baltimore, Bern, Frankfurt am Main, Berlin, Brussels, Vienna, and Oxford: Peter Lang, 2001) xvi + 275 pp. ISBN 0-820-45157-6 Pbk, \$29.95.

Owning Culture distinguishes itself early on as a unique and at times painfully hilarious study of the intersections – or really the collisions – of competing régimes of production and intellectual property law. In the opening pages of the book, author Kembrew McLeod relates how, as a graduate student, he trademarked the phrase, ‘freedom of expression’.™ No kidding. Not only does he hold US trademark number 2,127,381, officially sanctioning him as *the* owner of freedom of expression™ in the eyes of the US government (p. ix), but he even threatened to sue the publisher of a (fictitious) punk rock magazine by the same name (pp. x–xi). Of course, McLeod is a good leftist. His suit in fact was a media hoax aimed at exposing the absurd lengths to which the capitalist right to private property – and more specifically the right to intellectual property – has been extended in the last century, typically conferring political and economic leverage on those who already control the instruments of production. (Imagine the American Society of Composers and Publishers (ASCAP) threatening the Girl Scouts of America with a lawsuit for publicly performing its copyrighted campfire songs (pp. 54–56). Really.)

What emerges in *Owning Culture* is an analysis of a stunning array of subject-matter including folk music, African-American cultural expression, visual and sound collage, the appropriation of third-world/indigenous knowledges, genetics and consumer databases, and the internet. The book owes much to political economy, given its concern for how ‘intellectual property law helps facilitate the increasing consolidation of ownership’ in the culture industries (p. 2). It is replete with examples showing how AOL/Time-Warner, Monsanto, Starbuck’s, Elvis Presley Enterprises, Disney, and other corporate giants have blocked the use of ‘their’ intellectual property. Yet *Owning Culture* moves beyond a political economy critique in its efforts to explore how intellectual property law at once constrains *and* enables forms of cultural production (p. 96). It thus explores how cultural producers ‘respond to [the] structural limitations’ imposed by intellectual property law (p. 96), for example, by disguising audio samples in sound recordings, claiming fair-use, waging media campaigns in the face of cease-and-desist orders, and so forth. The book is a contextual cultural study in the strongest sense, insofar as it explores the effects of existing and emergent articulations between intellectual property law and an extensive range of practices of cultural production both in the US and abroad.

Owning Culture is at its best where McLeod investigates the ethnocentrism of Western

intellectual property law and its effects within a global commercial context. Western intellectual property law, he argues, recognizes only highly circumscribed sets of productive relations, characteristically those that privilege individual over collective notions of creativity and highly institutionalized processes of production over less formal ones. The resulting juridico-productive apparatus, he continues, produces 'conceptual and legal categories that exclude from patent protection the contributions and knowledges of local communities, farmers and indigenous peoples' (p. 159). The remainder of the chapter considers the consequences of these exclusions relative to farming/agribusiness and medicine/biotechnology. McLeod's discussion of the former is particularly compelling, since it opens up a rich avenue of inquiry for cultural studies on the cultural/political economy of agriculture and food. At issue here are the patent protections extended to the manufacturers of genetically modified seeds, protections that empower companies like Monsanto, Asgrow Seed Company, and others to dictate precisely how farmers can and cannot use 'their' products. For example, McLeod tells us how seed companies enforce policies of 'contractual sterility' prohibiting farmers from reclaiming patented seeds at the end of the growing season for reuse the following year – a practice as old as domesticated farming itself (pp. 161–162). Patent law thus 'promote[s] a cycle of dependence between the seed companies and farmers who must purchase seeds every year' (p. 162).

At least two implications follow from this discussion. First, it points to the need for additional research in cultural studies on the changing nature of exchange and consumption under capitalism, and more specifically on the expansion of a system in which the perpetual rental of intellectual properties supercedes the buying and selling of commodities. The ownership of such properties – perhaps even private property as such – may be becoming concentrated in a smaller number of hands. Second, it shows how the lines between 'material' and 'cultural' production blur within the framework of intellectual property law, where agriculture becomes articulated to questions of creativity, ownership, and so forth. McLeod's discussion, in other words, suggests a growing affiliation between agricultural production and cultural production, domains usually conceived of as analytically distinct, even unrelated, within cultural studies.

If the book falters at any point, it is in the Manichean way in which McLeod divides up the world of production. *Owning Culture* presents us, on the one hand, with a system of production associated mainly with African-Americans and indigenous and third-world peoples based in oral communication. This system is counterpoised, on the other hand, with a print-based system associated mainly with corporate-capitalist relations of production. While I do not intend to dispute McLeod's claim that capitalism articulates or subsumes non-capitalist productive and property relations, I would draw attention to Johannes Fabian's (1993) account of how the notion of orality remains heavily mortgaged to nineteenth-century colonial anthropology. Moreover, as Carolyn Marvin argues, orality is often deployed in contemporary scholarly discourse as a 'moral category', in the service of blaming 'civilized misery . . . on the assumed historical triumph of written practices over oral ones' – this despite 'abundant evidence to the contrary' (1984: 571). Although I doubt that McLeod's astute conclusions would change very much, some of his arguments nevertheless would be enriched by a history and analysis more sensitive to the syncretic character of productive activities.

Still, *Owning Culture* remains a smart and witty gem filled with engaging – and

sobering – analyses of the cultural politics of intellectual property law. Part reportage, part cultural criticism, McLeod's book skillfully complements and extends path-breaking work on intellectual property in cultural studies.

References

- Fabian, J. (1993) 'Keep listening: ethnography and reading'. In J. Boyarin (ed.) *The Ethnography of Reading*. Berkeley, Los Angeles, and Oxford: University of California Press, 80–97.
- Marvin, C. (1984) 'Constructed and reconstructed discourse: inscription and talk in the history of literacy'. *Communication Research*, 11(4) 563–94.