GLOBAL KNOWLEDGE CULTURES
EDUCATIONAL FUTURES
RETHINKING THEORY AND PRACTICE
Volume 14

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Global Knowledge Cultures

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Knowing Business depicts the essence of our relatedness and the business of coming to know. It depicts different depths of relatedness, the meanings we apply to this and also the things that are yet to be known. It depicts the complexities, the flux and the inter-relatedness of the business of life and not the life of business; an economy of knowing and not a knowledge economy.
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Knowledge is often thought of as a living, evolving public infrastructure which all users contribute to and benefit from. But of course not all knowledge is free. Even language itself can be bought and sold. Words were bought and sold for huge sums of money at the height of the dot.com fiasco. My favourite example occurred in 1998 with the 100 million pound attempt by Price Waterhouse Coopers to buy the word ‘Monday’ in order to re-brand its consulting arm. The corporate identity strategy was ultimately junked, but of course, there are many examples of hugely valuable linguistic real-estate: Apple, Orange, Passion, and Obsession. By and large we allow corporations to profit from the collective creation of meaning.

Similarly, there are no real barriers to corporations utilising stocks of knowledge vested in publicly created scientific knowledge without any guaranteed return to the ‘knowledge commons.’ Publicly created technical discourses serve the interests of technical elites in the production of privately owned commodities. Specialist words that evolve enable competitive advantage to be exploited and privatised. Technical acronyms are rampant within the hi-tech industries. Thus, language is co-opted in the commodification process. Digital technologies further enable this process. Already, superior nuances—elements of emphatic communication—are able to be commodified for use in answering machines and voice recognition menus in countless call centres. Voice recognition technology similarly opens up human language for commodification.

Moreover, global knowledge economies are by and large global consumption economies. Consumption now accounts for sixty to seventy percent of GDP in most industrialised countries. Much of this consumption is consumption of culture. Fuelled by their ability to modify and process the building blocks of identity (images, visual codes, phrases and ideas), our current mass media have expanded consumption in advanced industrial societies. This style of consumption has increased with the emergence of digital media. The ability to provide individualised identity construction commodities has made this self-construction process even more compelling. It can be expected therefore under this trajectory that media, which allow for individualisation, will spawn increased commodification, although with less reliance on mass images a la MySpace and Facebook. The ability of a switched broadband network to support delivery and billing for diverse, informationally or culturally significant commodities further increases the momentum towards increased cultural commodification.

Moreover, because of digital media this is the era when “externalities rule”. That is, a key component of the value of new products is the ability to connect, whether we are speaking of software, communications or more abstractly—
knowledge, to participate in a taste culture via enjoyment of a movie or purchase of a lifestyle. This is in contrast to the economic transaction of material goods, which are mostly valuable regardless of their precise relation to others. The term externality has been used by economists to describe situations where the value (or cost) of a product derives from anything outside the product itself. The best example of network externalities is the telephone: its value increases with the number of connections it allows. MySpace is valuable because it renders a social network instantly accessible.

When the rule of externalities happens early, product developers may generate a snowballing effect, otherwise described as the economics of "increasing returns". It becomes increasingly difficult for the system as a whole to change even though individuals might prefer a different product. The cost of the disconnect to the individual and the impossibility of collective opt-out means certain product classes become de facto monopolies, or at least are dominated by the large hubs in the network of connections. The use of one audio visual media and format over another since the post war era has seen this snowball effect played out numerous times (e.g., Phillips’ Compact Cassette, JVCs VHS, the DVD Forum).

Knowledge economies are therefore more prone to de facto monopolistic processes and domination by knowledge elites. The richest man in the world is so rich because of this dynamic; in effect, he has pulled off the equivalent of owning the English language. The tendency toward naturalistic monopolies is not only a function of the human desire to dominate but is also in fact a function of networks. Free scale networks are so-called because their fundamental properties don’t change as more nodes are added. They have an important characteristic: the number of connections in the networks is not distributed evenly or as a normal curve, but as a power curve. That is, the number of nodes with a small number of links is very large and the number of nodes which may link is small. Elites are a structural sine qua non of the networked knowledge society.

These dynamics explain the ‘marriage of heaven and hell’ that is 21st century knowledge capitalism. Digital media are the means by which this marriage is consummated. Firstly, digital media are connecting machines both literally and because digitisation brings diverse knowledge regimes together. And significantly, they industrialise/concretise, codify, design and modify the building blocks of identity: ideas, emotions and images. Digital design undergirds the identity economy by producing airbrushed images, changing the rules of cause and effect that humans imagine they live in. With the increasing commodification of culture, we also see the increasing instrumentalisation of culture. That is, as more and more aspects of lived experience (leisure, education, lifestyle services, media consumption) are opened for sale, their engagement becomes restricted to the act of consumption. Any activity not directed to the consumptive process becomes harder to sustain.

Is this instrumentalisation of identity creating the progressive dilution of stocks of social capital (e.g., trust) or faith in the regulatory capabilities of society which have allowed its markets to operate efficiently? Furthermore, digital
technologies extend property rights into the domain of language and culture in complex new ways and threaten some of the cherished functions that language serves—even perhaps the functions of reflection and critique. Terms such as ‘negative growth’, ‘downsizing’ and ‘outsourcing’ are linguistic distortions that serve to obscure and euphemise; they deny the realities to which they simultaneously refer. The elimination of words—indeed, whole ways of thinking—from the social lexicon similarly acts to maintain the public invisibility of outcomes. If, for example, ethical concepts are displaced by purely economic ones, the erosion of ethical practices becomes less detectable.

The issues that are raised by the contributors to *Global Knowledge Cultures* are thus of central importance in this historical moment. Who owns what knowledge? Do they own it fairly? Is the balance between public and private knowledge stocks being managed in a way that protects the knowledge commons, whilst at the same time allowing us to harvest from it? How do we encourage innovation? How should we protect fragile cultural knowledge? How do we deal with privately owned knowledge behemoths that must evolve in an era where externalities rule? Personally I do not hanker after the imaginary nostalgic Marxist utopias envisaged by some contributors. While I believe we need to protect the knowledge commons we also need to encourage the process of innovation. To me we seem to be in an important moment of cultural evolution where these necessary balances are being worked out. This may be an era when private interests can buy ‘passion’ but it is also the era of Wikipedia. It is also the era when, some would argue, consumers became co-creators. The jury may be still out, but by raising and debating the important questions that underlie *Global Knowledge Cultures* the authors of this volume have given voice to a range of critical positions which will hopefully help us to arrive at useful and critically informed answers.

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INTELLECTUAL PROPERTY OR INTELLECTUAL (IM)PROPERTY?

Toward a Transcultural Epistemology and Ethics

We need to change the way people view intellectual property in America...

Creative works are property just as much as a car,
a piece of land or a building.

(Dan Glickman, CEO, Motion Picture Association of America,
cited in Bernards & Osterberg, 2006).

... by me, who sought
Forbidden knowledge by forbidden means.
This yet I apprehend not, why ...
So many and so various laws are given;
So many laws argue so many sins.
(Milton, 1674, Paradise Lost)

In the current age of knowledge capitalism, the legal entities ‘intellectual property’ and copyrights have become increasingly prominent in both academe and everyday life. Indeed, for both literati and digerati, for example, questions of copyright permission have moved from the domains of law and library to centre stage of hands-on endeavour. Despite the educational and economic significance of ‘intellectual property,’ however, research on it remains limited in theoretical terms.

Dominant constructions of what ‘intellectual property’ rights are, and of how they are applied and studied, represent these complex social and cultural practices as neutral and self-evident. The quotations above nonetheless illustrate just two of the many positions on this contested entity called ‘intellectual property,’ and they show the extent to which issues of knowledge practice and access are intrinsically questions of politics and ethics. The first quotation arises out of corporate America and signifies a straightforward objectivist position taken from dominant western discourses of intellectual creativity as ‘property.’ The second probes historically the validity of this social construction by addressing the longstanding dilemma of the desire on the part of humans to know more than some authority figure deems necessary. The conventional response—to enact a(nother) law—is relevant here because law speaks into being ‘sins’ and ‘sinners.’ Transgression and offence beget ‘offenders,’ who become the ‘other’ of ‘law-abiding’ citizens in these simplistic and unhelpful binarisms (Davies, 2002; Suber, 1997).

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Two other features distinguish these statements: a time differential of four centuries and a technological disparity in which the 21st century chief executive officer of Motion Picture Association of America has an assortment of digital technologies at his disposal to tempt, surveille, charge, and condemn the hapless ‘lawbreaker.’ Consequently, with monotonous regularity mainstream media today carry stories about individuals and nation-states such as the ‘BRICK’ countries (i.e., Brazil, Russia, India, China, and Korea) who stand accused of ‘breaking the law’ by infringing copyright rules.

The sustained critical analysis of ‘intellectual property’ and copyrights presented in this volume is a means to a much broader end: namely, transcultural dialogue and an inclusive ethics on the question of knowledge cultures within a context of transnational knowledge capitalism.

The purpose of this collection is therefore to advocate for a global knowledge culture that is more legally efficacious, culturally inclusive, and educationally productive than existing traditions. Achieving this would have considerable impact across all sectors of education and the disciplinary domains they support. In many ways, the volume is a product of the current ‘curriculum wars’ being waged in the Australian press, and of an observation that these ‘wars’ are fought at an instrumental level of curricular content instead of philosophical belief where substantive differences endure. It seemed that, because deep-seated assumptions held by the camps are so fundamentally different, these debates are, in the main, a waste of time. I therefore sought to address these broad epistemic issues through examination of a bounded locus of knowledge practice that was undergoing similar contestation. Hence, the focus on ‘intellectual property’ and more specifically, copyrights.

This chapter took the form that it has partly in response to a conversation via email with Richard M. Stallman, founder of the Free Software Foundation. From the outset in my encounters with Richard, he discouraged me from using the term ‘intellectual property’ for the reasons he outlines in Chapter 2 of this volume. The writing of this introduction, however, suddenly became very difficult without my having recourse to the everyday language for the object of analysis, and it explains the somewhat dated use of quotation marks around each use of the term thus far to signify semiotically the status of ideological problematization. Richard’s provocation—to which I was sympathetic—pushed me to find an analytic approach that ceased to perpetuate the power/knowledge axis discursively sustaining the entity I was seeking to critically examine.

I therefore came up with the phrase ‘intellectual (im)property,’ as a rhetorical device, a ‘language game,’ to simultaneously conceptualize and linguistically trouble the term. Hence, for the purpose of this discussion, I use the term intellectual (im)property in reference to the discursive and legal entity, ‘intellectual property.’ Whilst I find the tortuous writing of postmodernist theorists elitist, the application of parentheses seemed appropriate here because it enabled me to foreground issues of propriety and ethics in relation to patents, trademarks, and copyrights without giving legitimacy and perpetuity to their linguistic signifier.
Intellectual (im)property is used here therefore to pose the questions whether and for whom these laws are ‘proper’ (i.e., appropriate, fair, ethical), or whether they are, in certain locations, situations and times, wielded in ways that are neither globally inclusive, culturally productive, nor politically wise?

The chapter begins with an examination of the contextual background for recent changes in the legal, political, and economic arenas of intellectual (im)property and copyrights. It explores key metaphors framing popular and scholarly discussion of these increasingly controversial entities, and presents a three-pronged programmatic framework for reconstituting the field as it currently stands. The one certainty in this sea of uncertainty is that intellectual (im)property and copyright are big business and big news. This group of scholars representing eight different nation-states invites the reader to reflect on some of the legal, cultural, political, and epistemological issues around knowledge, creativity, authorship, and ethics canvassed herein.

CONTEXTUALIZING CURRENT DEBATES

Since the 1990s intellectual (im)property and copyright have acquired unprecedented prominence in education. University faculty members sign copyright compliance forms for course readings and undertake training in the commercialization of their research outcomes. Email messages and posters pasted on hallway walls inform students about the illegality of downloading inappropriate material from the Internet. Education authorities, intellectual (im)property organizations, and copyright collecting agencies alike advocate public awareness and training in the value of intellectual (im)property, particularly around copyright.

In 2005, for example, the Motion Picture Association of America collaborated with the Copyright Society of the U.S.A. to promote public education on copyright law during the recently established Copyright Awareness Week. These two associations collaborated with The Directors Guild of America, The Film Foundation, the Entertainment Software Association, and the Business Software Alliance to develop age-specific curricula for this program. In and of themselves, these things are justifiable and valid. Yet something different is happening when young people hold such strong views on matters relating to copyright that they feel compelled to participate in public discussions of such technical and legal social issues.

Take the following text, which is an excerpt from a 521-word appeal written by an anonymous Australian ‘teenager.’ The text is a response to a call for submissions from the Attorney General on a government publication about fair use and other copyright exceptions (see Commonwealth Government Australia, 2005). Comprising just one of 162 submissions, the message describes changes in the regulatory framework that inhibit the copying of compact disks for private purposes, and it presents a case against the existing terms of use.
Hi,

This email is in regard to the Fair use issues document released on the Attorney-General's Dept. Website.

I'm a teenager growing up in modern day world, i'm a fond music follow like everyone else, however i find it impossible that CD Sellers are restricting their buyers to a single CD of the music…

i REFUSE to buy any more cd's which contain any form of copy protection, if i buy music, i am going to buy it in a form i can USE, Not one which i cant use, i have NO standalone CD Players, I infact do not have a Television either, Teens are moving on, and so the next generation of adults is moving in…

Being locked into a SINGLE cd which is prone to destroyment is a risk in todays world, i dont like buying things that cant be copied for backing up, After a few months the cd's and dvd's get destoyed(scratches and crud on the surface) leaving the user with a disc which is unable, and with computer games requiring an original CD, leaving us not able to play the game, having to Buy anoher copy of the program, Buy the next version of the program, Or 'Crack' the software to work without the CD..

Fixes?
Well let us make a damn copy of a audio cd, software cd, we've payed for the license to use the software, Cant we use it for life??...

I hope that some of this will come to the attention of someone…

(Anonymous #26, 2005)

The issue at stake here is the erosion of ‘fair dealing’ and ‘private use’ arrangements permitting the copying of portions of text for educational and non-commercial purposes. The text’s use of upper case for semiotic emphasis (for example, ‘REFUSE’ and ‘SINGLE’) and the provision of ‘fixes’ or solutions in subheading format indicate high levels of personal and social significance of the matter to the writer. Nonconformity to the genre of official documentation in its disregard of spelling (for example, ‘orignial,’ ‘destroyment’) and grammatical conventions connote a sense of impulsiveness, urgency, and boldness on the part of this outraged ‘teenager.’ Note also that the writer has positioned herself separately from the (outmoded) ‘adults’ who formulated the law as it stands.

It is noteworthy that this atypical participation of young people in debates that formerly were the domain of librarians and legal experts is occurring at a time of perceived crisis in schooling, literacy standards, and teacher education. Research in the sociology of education shows that educational ‘crises’ as reported in the mass
media tend to occur at times of rapid technological change, social disruption, or economic downturn. The current iteration of dissatisfaction with things educational—in Australia at least—has provided a forum for political conservatives to join with free market advocates and recycle timeworn arguments about the need for a ‘return to basics’ in schooling.

An emphasis on phonics and literature in the teaching of reading and writing, and the rating of schools through league tables are proposed as answers to an alleged need for better teacher accountability and management of an increasingly alienated and ‘unruly’ young adult population. In the United States, the No Child Left Behind Policy and the linking of literacy and math outcomes to school funding have arisen out of adult moral panic about the distinctive cultural proclivities and identity formations of young people. It is no coincidence that this furor over the young has occurred at a time of intense social change particularly around new technologies and literacies. Luke and Luke (2001), for example, argue that these tensions are effects of intergenerational difference in textual and literate practice because access to the latter has disturbed longstanding inequities in power relations between adults and children.

This raises the question, then, of whether and how heightened copyright protection—historically biased towards adult custody and control of textual content—is related to the maintenance of adult monopoly on print culture and its valorized knowledge forms? Are these corollaries—the young tech-savvy subject, ‘risky’ youth, educational crisis, and copyright ‘protection’—different dimensions of paranoia on the part of some adults concerned about losing control of their privileged position in relation to literacy, learning, expertise, and knowledge? Whilst I am not about to engage in a spurious cause/effect argument, it is useful nonetheless to examine what hegemonic accounts drive current intellectual (im)property narratives and policy formulations.

Dominant representations of intellectual (im)property construct it as a major means of sustaining the postindustrial economies of North America and Europe. As products of print-based paradigms founded on singular signifying systems and stable textualities, mainstream scholarly literatures on intellectual (im)property research is overwhelmingly instrumentalist in assumption and purpose. The first wave of contemporary literature on intellectual (im)property emerged within the legal arena, and was grounded in an ethic of respect for individual ‘property,’ or ownership rights. Following a spate of national and international agreements and treaties around digital rights management in the 1990s, a burgeoning literature of manuals and guidebooks dealt with the enforcement, litigation, arbitration, and mediation of intellectual (im)property rights in education (see Bobbitt, 1999; Byman & Geller, 2001; Christie & Gare, 2004; Hawke, 2001; McMillen, 1999, 2002; McSherry, 2001; US Government Printing Office, 2003).

This work provided a basis for a literature on the economics of intellectual (im)property rights promotion, which link discourses of property and profit (see Bettig, 1996; Cook, 2002; Dixon & Greenhalgh, 2002; Glick, Reymann & Hoffman, 2003; Pugatch, 2004). These texts conceive intellectual (im)property
rights, along with the laws and policies that construct and implement them, objectively as value-free commodities that are consumed by ‘users.’ Most theorizations of intellectual (im)property are therefore objectivist in approach. For example, Fisher (2001) and Menell’s (2000) reviews of ‘theories of intellectual property’ are written from positivist epistemological perspectives and focus largely on ‘utilitarian’ and ‘non-utilitarian’ aspects and issues.

The emphasis of this chapter, however, is neither the legalities nor the political economies of intellectual (im)property and its assumed rights. Rather, the aim is to problematize the discourses and epistemologies they assume, and to examine critically concerns held by a number of educators, community groups, social and natural scientists, technologists, new media artists, and first-nation people groups.

To that end, the following is a random selection of scholarly titles—listed in alphabetical order—that present critical perspectives on the field: Brand name bullies: The quest to own and control culture (Bollier, 2005); Copyright and human rights: Freedom of expression, intellectual property, privacy (Torremans, 2004); Copyrights and copywrongs: The rise of intellectual property and how it threatens creativity (Vaidhyanathan, 2001); Darknet: Hollywood’s war against the digital generation (Lasica, 2005); Free culture: How big media uses technology and the law to lock down culture and control creativity (Lessig, 2004); Information feudalism: Who owns the knowledge economy? (Drahos & Braithwaite, 2002); Publishing, piracy and politics (Feather, 1994); Shamans, software, and spleens: Law and the construction of the information society (Boyle, 1996); Steal this idea: Intellectual property rights and the corporate confiscation of creativity (Perelman, 2002); and Trade secrets: Intellectual piracy and the origins of American industrial power (Ben-Atar, 2004).

A cursory content analysis of the titles shows that three themes are at work in them. A prominent one is that of unmerited possession, or unjustifiable ownership. This is expressed in the terms to ‘own (culture),’ ‘feudalism,’ ‘piracy,’ ‘steal,’ ‘corporate confiscation,’ and ‘free,’ which means here ‘to free’ or the state of being ‘unfettered’ by cost or the mandate of permission. A second theme is that of social oppression by means of a hypocritical moral politics and a misuse of the legal system. This is evident in the puns and parodies of the phrases ‘copyrights and human rights,’ ‘copywrongs,’ and ‘the law’ as ‘sham(an)’ because it is used to ‘lock down culture’ and to ‘control creativity’ instead of fostering it. A third theme is that of symbolic violation, signified in the language of ‘bullies,’ ‘control,’ ‘war,’ and ‘power.’ The key assertion of these texts is that claims made about intellectual (im)property law as a means of enhancing innovation are false and that, more often than not, copyrights, patents, and trademarks inhibit creation and erode democratic participation through a stranglehold over information and cultural resources. Responsibility for this perverse politics of discursive manipulation is attributed through lexical reference to the social agents ‘law,’ ‘big media,’ ‘corporate,’ ‘American industrial power,’ and ‘Hollywood.’
Metaphors of ‘deficiency’ and ‘defectiveness’ used commonly in education to describe students whose primary knowledges and literacies differ from those of schools are similarly applied to individuals and groups whose social conditions do not enable their textual practices to conform to dominant intellectual (im)property policy and law.

For example, theorists working in the field of information science have generated a sub-disciplinary domain called ‘information ethics’ (see Freeman & Peace, 2005; Mendina & Britz, 2004). Using behaviorist concepts of ‘moral psychology,’ Crowell, Narvaez, and Gomberg (2005) have developed a ‘model of moral behavior’ that incorporates a synergism of ‘sensitivity,’ ‘judgment,’ ‘motivation,’ and ‘action.’ According to these authors, new technologies have created a condition they call ‘psychological distance,’ which encourages ‘antisocial behavior.’ Users therefore need moral training to help them control ‘unethical activities like piracy, hacking, or flaming’ to which they succumb as a result of this interational and social disconnection (Crowell et al, 2005, p. 20).

Programs like these are of limited value, however, because they are technologically reductionist in premise (technology causes problem; problem = moral lapse; solution = develop a program to ‘educate’ offenders) and do not account for either the social contexts of technology use or the constructedness of intellectual (im)property and its ‘other’ (for example, ‘copyright thieves’ and ‘pirates’).

Tropes from the medical and penal fields are also used. Titles like Software piracy: Possible causes and cures (El-Sheikh, Abdali Rashed & Peace, 2005) and conceptions of the FBI’s email surveillance system as a ‘carnivore: devouring criminals, not privacy’ (Dunham, 2005) psychologize and pathologize what are, in effect, social responses and practices around technologies of cultural participation and control. Through an historical analysis of industrial and intellectual piracy in the United States during the nineteenth century, for example, Ben-Atar (2004) shows how intellectual (im)property laws are constellations of historically contingent industrial and economic practices rather than absolute, sacrosanct truths.

Foucault’s (1980) concept ‘dispositif’ is useful here. Comprising any ‘heterogeneous ensemble’ of ‘discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions—in short, the said as much as the unsaid’ (p. 194), the term dispositif encapsulates the sociohistorical contingency of ‘intellectual property.’ This socially constructed ensemble naturalizes intellectual (im)property as a neutral object, property or law, rather than, as Williams (1977) would have it, a ‘selective [literacy] tradition’ of knowledges, texts, genres, conventions, and literacy events producing certain social relations and cultural outcomes for particular social groups.

Literacy practices around intellectual (im)property rules distribute and confer differential social positions, functions, and powers to individuals in proportion to their access to, and mastery of, discourses legitimated by these configurations of...
legal textualities and economies. The historical record shows, for example, that when the United States was ‘copyright poor’ the government ignored international laws such as the Berne Convention by disregarding the wholesale copying of ideas and flagrant publishing of books without author permission. Scientist and literary figure alike—including Thomas Edison and Mark Twain—routinely and unashamedly ‘stole’ ideas as grist to their creative capacities (Vaidhyanathan, 2001). Conversely, and with seeming hypocrisy, now that the United States is ‘copyright rich,’ the intellectual (im)property industry there expects others to comply with laws that it broke with impunity in the past. It is noteworthy also that the current selective iteration of intellectual (im)property fails to acknowledge or protect Native American cultures and knowledges that existed for thousands of years prior to European settlement (cf., Coombe, 2001, 2005; Riley, 2004).

Metaphors of geographical place also predominate in nationalistic discourses of recent copyright movements. The language of ecology is a sub-set of this place-bound trope. First used by James Boyle (1997) in his influential paper advocating ‘information environmentalism,’ deference to the natural world engendered a sense of ‘stewardship’ and the need to care for and ‘preserve the commons’ of the public domain. Concepts of the information commons and the intellectual commons currently function as counter-narratives to dominant free-market ideologies (cf., Bailey & Tierney, 2002; Lessig, 2001; Mitchell, 2005).

Little has been done, however, to historicize this metaphor since publication of Boyle’s paper, and the field is ripe for rethinking. This requires accounting for the discursive roots of ‘environmentalism’ as a movement from a particular sociohistorical milieu: namely, a western capitalist social context embodying Judeo-Christian beliefs, values, and relations to the land. Feminist theorists, in particular, have examined ways of collapsing the longstanding binary opposition between landscape and body in the relationship of human subjects to their physical terrains (cf., Davies, 2000). Much theoretical and empirical work remains to be done nevertheless in order to understand the implications of these ideas for the mind/body/knowledge dichotomy that produced the hegemonic ‘property’ focus of current intellectual (im)property regimes.

Considering these metaphors of autonomous and possessed place, it is no surprise that much of the dialogue around differences of viewpoint in the field is peppered with the language of conflict. Relatively common terms include ‘wars,’ ‘battle lines,’ ‘copyright warriors,’ and the ‘fight’ for access to ideas and information (cf., Thierer & Crews, 2002). Foucault (2004) asserts that ‘politics is war continued by other means’ and his schema of war as a ‘grid of intelligibility’ for examining the powers, struggles, tactics, and strategies of force-relations is a potentially productive approach that few—except Kapitzke this issue—have used. Discourse itself constitutes the war. Discourse battle is

—the mere fact of speaking, of employing words, of using the words of others (even if it means returning them), words that the others understand and accept (and possibly return from their side)—this fact is in itself a force.

(Foucault, 2004, p. xx)