

UNDER CONSTRUCTION
(IDENTITIES, COMMUNITIES AND VISUAL OVERKILL)
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BIBLIOGRAPHIC DATA AND CLASSIFICATIONS		
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Under Construction *(Identities, Communities and Visual Overkill)*

Abstract

Most of modern identities emerge from mediated interactions in public and virtual spaces. There are no acknowledged authorities to watch over organizational identities and grant them legitimacy. These identities are renegotiated in real and virtual communities, often carry a permanent label 'under construction' and can be violently contested in public space. Garrulous behaviour stimulated by interactive media and by the forthcoming Evernet allows for a gradual build-up of individual and social response to the visual overkill in media-regulated societies. Voicing the images over, we mobilize for action, dismantle institutional structures and generally speaking mix gate-keeping with data-dating, thus contributing to the overall change of world's cultural climate – one of bricks, clicks and flicks. Benetton's Toscani campaign and Napster's ordeal are cases in point.

Motto

I'm saying that art explodes at exactly the same moment as tool-based culture. That cave pictures prepared the leap, after a million and a half years of static existence. That pictures were the tool that enabled human lift-off, the Ur-tech that planted the idea of a separate symbolic existence in the mind of... The mind is the first virtual reality. (Powers, 2000, 130)

We are merely in the cave-drawing period of the Internet. In the second phase of the Internet boom, we will see the emergence of (...) the Evernet, where literally billions of devices will be on high-speed, broadband, multiformat Web.(Perkins, 2001,19)

Much libeled Napster users are dedicated music lovers, quick to reach for their wallets (Katz, 2001,2)

Key words:

Bricks, clicks, flicks, corporate identity, virtual community, visual overkill, cultural climate

1. The birth clinics of identities

Individual or corporate reputations come and go, but if there is a pattern to their ups and downs, if there is a hidden regularity to their trajectories, we are far from deciphering it. There is a serious and growing body of empirical research on particular cases of devastating blows to corporate reputations and on the ways of coping with them (see, for instance, McLane, Bratic, Bersin, 1999, or Jick, 1993). However, in most of these cases researchers are interested in the influence of unexpected – and potentially damaging - events (e.g. an oil spill, an airplane crash, an explosion of poisonous substances, a discovery of lethal side effects of a drug, a detection of automobile defects) upon an overall corporate reputation. They follow the “content management” track of corporate reputation building and maintenance. Less attention is devoted to the “media management” track of corporate communication and reputation maintenance. The latter would have to include, for instance, an analysis of strategies of coping with the visual (or audile) overkill in the process of defining a corporate identity. Establishing a strong identity and its careful maintenance (management of reputation) in targeted communities requires a continuous search for signals, which could survive a visual overkill of modern individual environment, i.e. shocking and attracting attention. However, if a shock is not purely visual, does not come from pitting our cultural expectations one against another, but results from an actual (and contested) disregard of legitimacy in social interactions – corporate reputation becomes a matter of disputes among peer networks and temporary authorities.

Let me illustrate the point with two recent examples of blows to corporate reputation resulting from a media management (or lack thereof) on the part of the involved companies and let us see if we can identify any new media norms under construction.

The case of Benetton’s visual ads campaign leading to Sears’ cancellation of a contract (which would have opened more than 400 points of sale for the Italian company all over the United States) is still fresh in corporate memories (cf. BBC, 2001). Following a media strategy of a maximal shock value, Benetton’s owner and CEO, Luciano Benetton, allowed his principal visual artist, a photographer, Oliviero Toscani, to shape the corporate image on the American market. Toscani has earned his reputation with a number of visual campaigns for Benetton – all of these campaigns had been carefully designed in order to increase their shock value and to secure a free coverage in the media. Thus having designed large billboards for the centers of the cities, Benetton could count on television, papers and periodicals multiplying his creations (even if this multiplication was accompanied by protests and critical comments on tastelessness of the images). When clients came to visit the Benetton shops or boutiques, they reaffirmed their visual memories of the advertising by locating the same images in the theme catalogues (distributed freely among the customers). Corporate identity was thus linked to the visual campaign reproduced by the media (traditional and electronic ones):

“Toscani’s United Colours of Benetton campaign was a great success. But he was daring and iconoclastic, and soon moved from images of people in company’s multi-coloured sweaters, to more notorious images, such as snogging nuns and priests, and copulating horses. They outraged the establishment and caused offences to many different cultures. (...) With the increasing publicity about controversial advertising campaigns, Benetton became one of the five most recognised brands in the world.”(BBC, 2001,1)

Two elements of this corporate identity maintenance deserve attention: a loose connection between the core business and the content of visual campaign and a visual shock therapy as means of securing client attention and long-term interest. There is no apparent connection between a war cemetery and a Benetton sweatshirt, between a chain of retail stores selling clothes and two copulating horses. Associating the two is an arbitrary choice of an artist and public acceptance of this suggested association depends on the persuasive, seductive power of artistic vision. This power of individual artistic vision increases due to a skilful manipulation of shock effects in the media. Where does a shock effect come from?

The visual shock of Benetton campaigns came from toying with the hidden emotions and prejudices, from contrasting a convention of “political correctness” with a superstition and bias glimpsed in the outbursts of “gut feelings” of various social groups and individuals in modern urban centres. According to a recipe from popular folklore one paints an angel in white. This convention is based on iconographic tradition of painting and on medieval theatre performances accompanying church festivities. A convention, granting the white colour a higher status than a black one is morally neutral (it has not been conceived by comparing races but by contrasting day and night) and socially innocent (black night of sin can be attributed to all social classes and all races). On the other hand, the racist doctrines picture a white man as superior to a non-white, for instance, a black one. Thus a carefully orchestrated photograph showing a black girl with hair done in a way resembling devil’s horns and a white girl with angel’s wings refers both to a neutral and innocent convention and to a politically, emotionally and morally charged racist depiction of a white man’s superiority. Viewers are puzzled, anxious, uneasy. They remain viewing the image longer than they would have done without this skilfully balanced associations. “United colours of Benetton” clearly echo the United Nations (of world nations). A purchase of a sweater in Benetton’s boutique becomes – metaphorically - as glorious as voting in General Assembly on global issues. A sequence of lovely portraits of Israeli-Palestinian love couples, printed in one of the catalogues, demonstrates the possibility of a humane coexistence instead of a bloody confrontation. Electronically interchangeable faces of humans of different races advertising Benetton in a TV-spot are all examples of a powerful artist, Toscani, trying to guess, predict, confuse our subconscious associations and to display them in order to increase their shock value.

This generation of visual shock therapy brought Toscani fame and strengthened Benetton’s corporate identity on a global scale. The next generation of Toscani’s ideas was even more controversial. Toscani started using the photographs of dying

AIDS patients, of HIV positive models, of the blood-soaked shirt and pants of a Croatian soldier killed during the civil war, and of war cemeteries as visual background of advertising texts on billboards. The public tolerated it and most of the comments focussed on the aesthetic aspects of Toscani's work and his elective affinities with the artistic avant-garde. There were a few isolated and limited protests, but their organizers focussed on the limits of a good taste and moral responsibility of the media structuring modern visual communications. Some periodicals refused to print Benetton's visual ads, adding to the atmosphere of scandal, which further increased general interest in the company.

It was becoming clear that Luciano Benetton, who has been working with Toscani for 18 years, made bold strategic choices in building and maintaining his corporate reputation. It appeared that the aura of a modern *mecenas* supporting shocking contemporary artist (who should be always searching for a provocation) was more important to Benetton than complaints of some groups among the audience about taste, tastelessness and moral impropriety. A marriage between a tolerant sponsor and a daring artist seemed to have been made in heaven.

Aesthetically speaking, and as far as photographic artists go, Toscani definitely belongs to a venerable tradition of avant garde artists who saw themselves as provocateurs. This aesthetic tradition started with Marcel Duchamp bringing a serial porcelain "urinoir" purchased in a regular store to an art exhibition and placing it there (under the title "The Fountain" and with the artist's signature). Toscani can also be compared to the other famous photographic artists who have used provocation as their artistic technique for shocking the viewer. He certainly equals Robert Mapplethorpe or Diane Arbus in composition, sophistication and raw shocking power of visual imagination applied to actual, real human beings, photographed and styled according to the intuitive, unwritten rules of the emergent political economy of attention (cf. Franck, 1998). Toscani's visual masterpieces and carefully calibrated quasi-aesthetic campaigns in public spaces were a currency with which Benetton paid for his corporate reputation – attracting customers and attention. Turning advertising to an artist, Luciano Benetton has taken the risk; he had turned the visual space into the birth clinic of Benetton's corporate identity, but announced that there is a single, independent father who is aesthetically powerful but morally and politically unconstrained artist. Part of the public appeal came from the unexpected in Toscani's work, and thus the artist's sovereignty was essential (it guaranteed independence from predictable corporate policies).

Trendy design, relatively low prices and simple interiors of Benetton's boutiques acquired symbolic, culturally conditioned added value in the eyes of the clients. These raw, modern interiors were easy to associate with the most shocking visual messages in the media space, with a visual equivalent of an urban "rap" in popular music of the young generation. They were "empty spaces" which the customers filled with their associations triggered by Toscani's artistic efforts. They could be compared to cinemas, where a continuous movie of virtual identity was projected through the promotional campaigns.

2. Virtual and real communities strike back.

The first two waves of Toscani's ads were politically and aesthetically risky, but did not provoke any particular social group in any European society. Discussions and comments were numerous but failed to mobilise any significant segment of the population against the company (there were no demonstrations of AIDS patients, black employees or followers of another ideal of aesthetic beauty). Negative responses failed to mobilize a clear-cut community for a decisive action against the company's visual aggression in the public space. The third and last generation of Toscani's visual advertising for Benetton has met with a different reception, primarily because it required even stronger shock effects and because it was conducted in the United States, with a cultural climate different from the European one. This last campaign provoked a social response, and it had morally injured a group which mobilised itself for an action against Benetton/Sears and eventually put an end to the corporate sponsoring of Toscani's visual campaigns:

“Toscani wanted to highlight the plight of those on America's death row. He decided to produce a video and booklet to document the stories and faces of prisoners and avowed to ‘give a human face’ to those awaiting execution. He got access to prisoners via a top American civil rights lawyer and spent several months visiting prisons and speaking to inmates.”(BBC,2001, 2)

Originally, the artist produced a video and a booklet distributed through the Benetton boutiques in Sears' stores throughout the United States, but trying to increase the visual impact he had also started a poster campaign with portraits of inmates from the death row. This use of the public space outraged the families of the victims of the depicted murderers. They were offended by what they saw as giving these convicted criminals a free publicity (instead of a condemnation and obliteration from public space) and started a protest against Benetton's glorification of those who had killed their relatives. They were offended by disregard for the moral quality of Toscani's models (repulsive criminals) and by making these models famous for purely commercial reasons. Their campaigns paid off – a grass-roots protest of a handful of individual citizens led to a broad campaign of boycotting Sears, of sending letters of protest and of cutting up Sears frequent customer cards. Sears managers became worried about their own corporate reputation and finally decided to cancel the deal with Benetton (who promptly cancelled his own deal with Toscani).

The reason for this can be found in cross-cultural differences between Europe and the USA and in the limits of the shock therapy as an instrument for creating customer loyalty. Europeans did not respond to the visual campaigns of Toscani, even if they were outraged by strong images and associations with racism, war, sickness and death. Nobody felt that he(he) or his(her) virtual community should actively seek to redress an injury caused by offensive posters or billboards. Visual overkill and a long tradition of provocative avant-garde artistic communities bred liberal restraint and not a committed action. For instance, Catholic Christians could have been offended by depicting nuns and priests in advertising – nevertheless, they did not move and

neither did the officials of the Catholic church. Should it have moved? Perhaps. However, the Catholic community is very large and heterogeneous and mobilizing it in order to oppose a short-lived advertising campaign would be very complex and would have to involve a large, bureaucratic organization. In the United States individuals perceive themselves as less dependent on large bureaucratic institutions, for instance state or federal administration, and – as noted already by Alexis de Tocqueville – more frequently resort to a grass-roots initiative on a local level. Moreover, they also felt personally offended as members of a small community of families of victims. Profound sense of moral injustice and quick access to the other members of this virtual community(1) facilitated quick establishment of a communication network and a coordination of protest activities.

The very strength of Toscani's visual campaign – universal presence in public spaces – made it possible to all families of murderers' victims to experience this visual event simultaneously. Benetton's poster campaign with convicts' portraits triggered a passionate action, but not the one he had expected. Toscani wanted to create a visual shock and attract American customers intrigued by unclear association between the posters and the retailer (as he did in Europe). He may also have expected some solidarity with his own personal horror vis a vis a death penalty (as he would have expected in Europe, where death penalty has practically been abolished). In the United States, however, majority ignored the poster campaign's message and moral point, since only a minority shared Toscani's bias against death penalty. Thus there has been less motivation for a tacit support or at least a neutral, permissive attitude and a focus on aesthetic rather than moral aspects of the advertising campaign. Also, as opposed to Europe, there was a small and very highly motivated minority, which decided to terminate the whole campaign (outraged by the very possibility of less negative stereotyping of the convicts, as a kind of their visual redemption). Maintenance of corporate reputation required Sears to respond by yielding to the demands of this motivated minority – and implicitly to their negative categorization of Toscani's models.

Families of victims succeeded in adding a new punishment to the death penalty for convicted murderers – they exiled their portraits from public spaces. Their success, quite surprising when compared to the relatively mild, isolated and ineffective protests in Europe, can be attributed to the ingroup anxiety triggered by what they perceived as an undeserved glorification in the media, a kind of a “Bonnie and Clyde” with real-life characters. Researchers interested in social identity formation, intergroup anxiety, triggers of emotional identification and especially on the processes involving ingroup bias and social categorization often point out that public campaigns with a shock value can turn individuals into high identifiers accelerating individual and group response:

“High identifiers may be more likely to have negative or hostile reasons for being anxious than low identifiers. In this way, intergroup anxiety may mediate the relationship between identification and stereotyping during intergroup conflict”. (Capozza, Brown, 2000).

Toscani and Benetton have miscalculated the cultural climate (with respect to the death penalty) and failed to predict a response of the audience (minority activism, convicts' portraits as stimulants of high emotional identification).

3. Gate-keeping and data-dating

The case of Benetton has been closed in February 2000, when Sears cancelled the deal and Luciano Benetton fired Oliviero Toscani. The second case of corporate reputation remains open and depends not only on a networked gate-keeping, but also on emergent patterns of data-dating, which are linked to the technological developments and corporate identities under construction. The analogy between the two cases rests on the role played in both by a cultural climate. Benetton failed in the United States, because a strongly motivated and well networked minority decided to act against moral provocation in service of commercial interests. Their actions were successful because majority supported a legal system including death penalty and thus refused to defend the artist, who was implicitly criticizing it (with respect to the cultural climate, Europeans were much more tolerant in this case since they are also predominantly against death penalty. In the second case, there is a growing virtual community of predominantly teenagers freely downloading music from one another, which does not accept a legal system threatening to shut the community down. This community signs its communication sites with "not-the-thieves-but-consumers" label. Will it make the difference by legitimizing the peer-to-peer networks and finding a niche for them in a changing eMarketplace? This introduction makes it clear that the case in point is Napster, Inc.

The company was founded in 1999 and employs 45 people (as of December 2000) under the CEO Hank Barry, former attorney at the legal firm Wilson Sonsini Goodrich & Rosati. It develops software which enables individual users to locate and download MP3 (music) files. The company intends to become profitable through deals with record or media companies and online sales (Napster's and Bertelsman's managers spoke of introducing the subscription fee for the Napster users in future, but were uncertain about the monthly fee indicating amounts varying from 10 to 40 US\$).

On February 26, 2000, judge Marilyn Hall Patel acknowledged the claims of the Recording Industry Association of America accusing CD-sharing websites of violating the copyright law and issued a preliminary injunction against Napster, the most popular MP3-sharing site servicing more than 20 mln predominantly young people. Her verdict was suspended when the court of appeals put a stay on her lockdown, but traffic to the Napster site increased by 71% over the next few days. An enthusiastic journalist stated that:

"A major download site for Gnutella – a swap system that, unlike Napster, has no central servers – daily hits soared from 30.000 to 1,6 million. With every mouseclick, users were voting to keep file-sharing alive.(...) Amid all the diatribes about 'theft' and 'copywrong', these numbers tell the real story; when you link millions of

computers using streamlined protocols, you also link millions of individual decisions into one massive community of action” (Anonymous, 2000, 234-235)

The RIAA lawyers claim that with each free downloading of a song the producers are losing business (a person who has just downloaded a song does not have to buy it on a CD or on a cassette) and artists are deprived of their royalties (a person who is downloading a song does not pay the copyright to the authors and performers). The Napster lawyers claim that non-commercial sharing of music is not an infringement of the copyright laws – very much like lending a book to another person is not punished by printers, publishers and writers, although it may prevent them from selling additional copy. If a person borrowing my book from me copies it for commercial purposes and I learn about it – I should refuse to lend him any books in future (otherwise I become an accomplice). This is exactly what Napster does – whenever it learns about somebody copying and subsequently trading CD’s – it closes this person’s account down. The defence lawyers also invoke the 1984 case of Sony vs. Universal Studios. The latter, representing the film industry, tried to keep the video recorders from the US market claiming that if everybody can copy a movie, nobody will want to buy video cassettes or go to the cinema. The representatives of the film industry were unsuccessful, but the dissemination of VCR’s – so long and so vehemently opposed by the film producers - actually increased the profits of the film studios both from the sales of video cassettes and from the sales of cinema tickets. Likewise, argue the lawyers of Napster, in the past two years of peer-to-peer sharing technology the actual sales of music CD’s went up 20% and thus Napster should be encouraged rather than persecuted. Moreover, over 25.000 artists have already authorized Napster to permit website users to share their music, recognizing the publicity value of this new communication technology.

The case is still pending, because Napster succeeded in settling out of court with some record companies (which were eager to step out of the RIAA case for fear of being accused of operating as a cartel). Another interesting twist in the Napster tale came from Bertelsman, a German media company interested in peer-to-peer communications. Bertelsman lent Napster 51 million US\$ in order to prevent it from getting under control of RIAA and made it possible to continue the company without surrendering to the record companies as “content providers”. RIAA’s court case also mobilized the company clients and turned them into a virtual community – Bertelsman’s interest in this community, all of them potential customers, prompted the financial assistance:

“(Judge Patel’s) decree transformed an evolving economy into a cause, and turned millions of politically apathetic youngsters into electronic Hezbollah. Neither the best efforts of Judge Patel – nor those of Porsche-driving executives of the Recording Industry Association of America, nor the sleek legal defenders of existing copyright law – will alter the simple fact: No law can be successfully imposed on a huge population that does not morally support it and possesses easy means for its invisible evasion.”(Barlow, 2000, 240)(2)

On February 13, 2001, the federal court in San Francisco decided that Napster does not have to close down as demanded by the RIAA, but that it must prevent its visitors from infringing upon the copyrights of the record authors and producers. The case has now been forwarded to a lower court in order to determine what exactly are the rights and duties of an electronic exchange forum for recorded music. Since the federal court basically agrees with judge Patel's earlier sentence, a more precise definition of duties and customer control will probably force Napster to re-organize in order to make sure that it does not facilitate mass infringement of copyrights. Will it be reduced to a new paid on-line service for Bertelsman's BMG record company? Will the customers then abandon it?

Napster's allies see in peer-to-peer technology a new American frontier (the author of the above manifesto is a former song writer for Grateful Dead and a founder of the Electronic Frontier Foundation). They would like to replace the present gate-keepers of the organizational and institutional networks with less restrictive protocols of virtual communities of data-dating individuals. Can these communities be eventually directed towards behaviour which would be inoffensive and offer business opportunities? Some critics are quite certain that this will be the case:

"A series of new studies of Napster users suggests everything you've been reading about music file-sharing systems is baloney. You're not thieves and pirates, it turns out, but marketing pioneers and music lovers quite willing to pay for the music. These new studies suggest that file-sharing could have enormous implications for the selling of content, culture and information on-line, none grasped by dunder-headed corporations like the record labels."(Katz, 2001,1)

Neither Napster nor Gnutella nor FreeNet produced a new business model for peer-to-peer networks so far. This failure has been reflected in caution exercised by the investors. Venture capital companies were much more cautious than Napster's clients and even Napster, arguably the best known peer-to-peer website all over the world, attracted only 2 million US\$ of seed money from Angel Investors, ValiCert and [Excite@Home](#) plus 15 million from Hummer Winblad Venture Partners - prior to the Bertelsman loan (extended in order to allow Napster to get through the court case and give Bertelsman control over a new peer-to-peer technology), which has trippled company financial reserves.(3)

Cultural climate around the Napster episode can thus be described as moderate, not hostile to the attempts to offer free downloading of music, which is perceived as a mild form of civic disobedience demanding lenience rather than "punishment" and which is also seen as a "potentially revolutionary model for marketing culture"(Katz,2001,2). Is it possible that roots of this difference between a decisive, personal and passionate action against Toscani's visual overkill and a relatively mild and mixed response to Napster's audile overkill are to be found in different impact of both on a public space? Visual overkill in places open to all individuals (posters, billboards) is perceived as a much greater threat to the group values than an audile overkill limited to a consenting community of peer-to-peer website visitors and not

immediately perceived by anybody else. Virtual communities (teenagers as music lovers) can, perhaps, take liberties, which real communities (companies, advertisers, sponsors) would be punished for.

Another crucial difference concerns technology: the case of Napster is linked to the development of a new peer-to-peer communication technology which can be run without a central server or even without a customer duty to identify him or herself. This new technology leads to applications (e.g. free downloading of music due to a peer-to-peer file-swapping) which cannot be easily reconciled with our economic and legal environment. Therefore those involved exercise much more restraint, do not mobilize penal action, resort to the courts, and the courts are handling the case carefully, mindful also of an enormous social and commercial potential of millions of Napster users (linked much more emotionally to Napster than Benetton's clients ever were to Benetton)boutiques). Moreover, the ranks of Napster's enemies are not closed: one of the largest record companies, Bertelsman's BMG, has actually sabotaged the RIAA effort, evidently believing what some of the allies of Napster are posting on the web:

"The true significance of file-sharing wasn't an end to intellectual property, but an exciting new way to develop markets. (...) Evidently, file-sharing isn't a dangerous menace but an effective new method of disseminating – and selling – content and culture. Aside from these new findings, the Napster experience also suggests that when it comes to dealing with the Net, businesses often have no idea what's good for them."(Katz, 2001,3)

4. Virtual communities and competitive identities.

"Virtual communities differ from real-life communities in the basis upon which their participants perceive their relationships to be intimate. People on the net have a greater tendency to base their feelings of closeness on the basis of shared interests rather than on the basis of shared social characteristics such as gender and socio-economic status."(Wellman, Gulia, 1999, 186)

The battle fought by Emory and Donata Nelson against an attempt to glorify the murderer of their son in a visual advertising campaign ended with a success. It did end with a success in spite of the fact that no court ruling about limits of publicity had been pronounced. It is difficult to speculate about the possible results of a court case – had Sears taken the protesting victims' parents to the court for disrupting business. Sears bowed to the offended minority of victims' families assuming that a broader society remained friendly neutral about their moral outrage. We will never know what would have happened if Sears acted on behalf of Benetton and won the court case preventing victims' families from protesting against Toscani's advertising campaign.(4)

The battle fought by the RIAA against Napster facilitating a free downloading of recorded music through the MP3 – based software and a peer-to-peer network - remains undecided. All parties are acutely aware of the fact that college students, who have PC's and are often on-line – will become the mainstream, trend-setting consumers when they enter their working life period. Napster insists that it is not indulging in piracy and illegal distribution of the copies of records and that facilitating peer-to-peer downloading it is actually increasing the demand. Napster has not given in to the pressure of RIAA to pay high penalties for estimated revenue losses (sensing the attempt to take-over their peer-to-peer network). Moreover, due to the publicity brought by the trial, it increased its popularity in a virtual community of users who make use of file-swapping. On February 10 to 13, prior to the federal court decision (it was feared that the judge will order immediate closing down of the Napster website) a record number of 50 million visitors made use of Napster's services. The users do not feel remorse. They think that artists are making more money with the interests developed by free downloading than they would without. They do not think it is morally wrong to profit from a technology which makes the quality of second-hand music indistinguishable from the quality of a first-hand recording company product. Moreover, the interest shown by the media giant (Bertelsman) in a small company (Napster) accused of supporting piracy (partly of the Bertelsman's own products) is already the first signal of Napster's possible success in future and a significant financial backing gives the company resources to fight the court battle and time for research. Bertelsman is gambling on the next few years – primarily on inventing a business model for exploiting the virtual community Napster had tapped.

The case of Napster rests on the success in mobilizing support of their twenty-odd million website visitors (music fans) before a business model for selling music to them has been invented. Free downloading and peer-to-peer file-swapping may be a step in the right direction, i.e. towards the mobilization of a virtual community for real supporting action, but it remains the first step. In fact, Napster is making an ingenious use of one of the strategies of deception already noticed in analyses of identity and deception in the cyberspace. It is creating a virtual free-exchange community for the owners of recorded music and hopes that when the website becomes attractive enough to form lasting habits (i.e. consumer loyalty to the virtual community), visitors will continue to flock there (even though they may then face charges for continuing to do so). In a sense, therefore, Napster claims that it is already creating a strong competitive corporate identity, although technically speaking it is only creating a facilitating platform for a peer-to-peer networking and can control behaviour of the virtual community members (for instance preventing them from direct competition with record companies) only to a limited extent. Does it build this reputation while throwing other people's money away? This is one of the points of the RIAA lawyers. Napster points out towards the peer-to-peer networking as a new technological development which is not yet subjected to a legal regulation. Its lawyers might actually also consider the following analogy:

“Wasting money is a reliable signal for wealth because a cheater, a poor individual claiming to be rich, does not have money to throw away, the message of strength may be displayed reliably by bearing heavy loads, and confidence may be displayed by providing an advantage to a rival.”(Donath, 1999, 32)(5)

The RIAA lawyers claim that Napster is giving away their money, because it enables millions of teenagers to exchange their products on the Internet. Publicity around the Napster trial is in fact a free ride (free commercial advertising) for the website company, because a general tolerance towards music-copying among the younger generation. A moral outrage at the glorification of a murderer (promoted by Toscani) cannot be compared to the moral anxiety experienced by a teenager who acquires a new recorded song without paying for it (promoted by Napster). Moreover, teenagers are supposed to pay one of the recording companies which are perceived as enjoying excessive profit margins, perhaps acting in a cartel and deserving a punishment for ignoring modern media technologies. Aware of the seriousness of the situation, Napster had found an excellent defence lawyer – David Boies had previously successfully defended IBM, AOL and CBS and equally successfully defeated Microsoft on behalf of the Department of Justice. Boies realizes that the Internet, which grew out of the technology for a rapid exchange of data among military specialists and selected members of a scientific community, is also rapidly becoming a powerful instrument for building virtual communities, including the teenage bonding. Cultural climate after the Internet has changed.(6) Napster explores this bonding and traces the new virtual communities. It is building corporate reputation on its ability to create and mobilize a virtual community. If it loses the court case and has to close down, the record companies will try to turn the Napster website into an eMarket – this however, depends on a successful prevention of piracy – for instance through the electronic watermarks (unavailable as of the present writing). It is quite possible that closing Napster, Gnutella and FreeMail will serve only one purpose - to provide recording industries with time to understand new communication technologies and to compete successfully against emerging business models. It is also possible, however, that once mobilized, the virtual community of Napster will fight back and that the courts will not assist the recording industries realizing that they are only trying to play the slowing-down game:

“Perhaps the most obvious promise of communication in cyberspace is that the new technology holds great potential to provide space for many more voices than have ever before had access to such powerful communication medium. (...) The current Internet structure flattens hierarchies, allowing people to correspond with each other regardless of corporate position or rank. (...) The current shape of the Internet seems thus to offer the potential for expressions from the *vox populi*.(Gurak, 1999)

The expression *vox populi* may sound pretentious, but policies in cyberspace do not develop in a controlled manner since there is no party, which could claim control over all of the emergent Internet communications. Some degree of control is exercised by governments, which decide about large chunks of informational infrastructure, but this influence is tempered by political checks and balances, especially in matters of

privacy.(7) Some degree of control is exercised by business communities, but business community does not speak in a single voice (a law suit of RIAA against Napster in San Francisco is a case in point, and so are giant mergers – Time/Warner with AOL for instance – which change the whole field of media and communication). Some degree of control is also exercised by the users themselves, the netizens (citizens of the net), who contribute most to a change in the cultural climate of post-Internet society, but who have not yet emerged as new agents of change. They may, however, for instance by co-creating competitive corporate identities – with every click of the mouse proving their virtual loyalty to Napsters (and audile free “flicks”) rather than Sony’s (and their audile proprietary “bricks”) and generalizing their experiences into other areas of their activities:

“Recent figures prove that file-sharing services actually generate sales and put more money in artists’ pockets. This has enormous implications for those making movies, publishing books, or creating any kind of saleable entertainment. It suggests that the Net may work best as a three step process: first connecting customers with culture, then generating interest in cultural and informational offerings, then keeping track of their tastes through sophisticated new digital marketing research. Theoretically, file-sharing approaches could go beyond shopping to stimulate interest in education, business, even politics, if the music experience is any indicator.”(Katz,2001,1)

In order to build a stable corporate identity and to be able to launch brands into the information space (both Benetton and Napster are already there), the old-fashioned “bricks” of a business model have to be in place. The business model of shocking advertising campaigns was not adapted to the US cultural climate and thus failed, while a business model for Napster is still in the making (and it is thus difficult to predict if it fails or becomes an eagerly copied matrix for other busienss models). “Clicks” of an on-line presence do allow for a change in cultural climate through a mobilization of a virtual community. In case of Benetton a mobilization of the opponents of a death penalty would offer a buffer against the protesting minorities and prompt Sears to undertake legal action. However, such mobilization turned out to be impossible, because a militant minority took grass-roots action, while majority did not support the moral message. Moreover, Benetton did not attempt a simultaneous shadow (website?) campaign on a large scale. In the case of Napster a mobilization of over 20 million of visitors in 1999 (which compares favourably with the 1997 data for other popular websites: 9 million visitors were attracted to AOL and 2 million to MSN in that year) has been a success, but this success has not yet been transformed into a successful implementation of a business model (since none emerged so far), nor was it coordinated with a public space presence (even a virtual one – through immediate networking with many other popular websites and through organizing activities among – for instance - college students). Tactit consensus of Bertelsman and Napster appears to be a “wait (till visitors get addicted to the website) and see (if you can then charge them for accessing it)” strategy. A chance of a successful lining up of “bricks” (business model with paying points), “clicks” (a popular website attracting many visitors) and “flicks” (a large repertory of music – or video clips - which can be downloaded) depends on an ability of Napster and its supporters’ virtual

community to shape a new chapter in the history of the Internet. Will they succeed? There are some preceding cases which suggest a modest optimism:

“During the history of the Usenet, waves of new users have flooded it repeatedly, first as universities opened access to the Internet and thus the Usenet to student populations, and again as commercial online services and Internet Service Providers made network access a consumer commodity. Each wave has challenged the existing structure and traditions of the Usenet and resulted in fashioning of new ones.”(Smith,1999, 215)

This optimism is shared by one of senior researchers in Xerox’s famous Palo Alto Research Center (PARC), whose opinion can be quoted as an illustration of a cultural climate in and around a Silicon Valley. He describes the potential value of a large teenager virtual community for future commercial developments in following words:

“Imagine teenagers marketing their ‘clans’ with distinctive kinds of clothing or jewelry not available through the usual retail channels. Imagine sports enthusiasts – say bicyclists or surfboarders – suddenly appearing with unusual new kinds of gear. Imagine art objects or car accessories that appear almost overnight, seemingly out of nowhere. The Net could trigger waves of cultural experimentation in people and groups who are invisible until they show up with their unique and possibly weird artifacts. The Net could trigger further reorganization of business and manufacturing, with outsourcing of design, manufacturing and distribution.”(Stefik, 2000, 288)(8)

In other words, the emergent corporate identities will probably tend to remain under construction forever, and they may even prompt a copying act in other areas – of building a political or educational network and identity. If so, then Napster can be considered a trend-setter in that it had started mobilizing a virtual community even before a viable business model has been developed. Perhaps we are dealing with the emergent property of a new cultural climate; in times of visual and audile overkill virtual communities tend to respond to a mobilization even before a cause is announced and a label for action has been found. Not only birds of feather flock together – nowadays the flock together, discover their virtual community and swap their feathers afterwards. Perhaps what is needed to complete the construction of a corporate identity of a future peer-to-peer based Napster-like network is an evocation of a powerful, symbolically and emotionally attractive myth of an eternal struggle of the Good against the Evil, similar to the one evoked by Kees Schalken and Pieter Tops who have designed Amsterdam’s Digital City and are presently studying ways in which it is being used:

“They pit two theories about the relationship between democracy and technology against each other: the Athenian Agora in which computing technology enables citizens to participate more extensively in political decision making that affects their lives versus Orwellian forms of monitoring and control in which electronic networks enable governments (or business corporations – S.M.) to do a better job of keeping track of personal data about individuals.”(Harrison, Stephen, 1999, 237)(9)

Notes:

- (1) Interestingly enough, public protests of those who oppose death penalty have been instrumental in creating communities of victims' families in the United States (families are presently assisted by special agencies helping them to cope with the loss, while murderers are "processed" by the judicial system). A Catholic nun who became one of the most famous activists campaigning against death penalty has noticed this paradox recognizing the moral necessity to work simultaneously with the convicts and with the families of their victims (cf. Prejean, 1993)
- (2) Stressing the American tradition of sovereign citizenship, Barlow also explicitly compares the virtual community of Napster customers to the virtual community of the US citizens: "What's happening with global, peer-to-peer networking is not altogether different from what happened when the American colonists realized they were poorly served by the British Crown. The colonists were obliged to cast off that power and develop an economy better suited to their new environment" (Barlow, 2000, 240)
- (3) "Even though Napster boasts more than 25 million users, VC's still question whether there's any way to make money from the service. The old Internet model of attracting as many consumers as possible and then figuring out how to make money off them has, in too many cases, proven to be a miserable failure." (Stein, 2000, 228) Not only venture capital companies are too cautious: according to some allies of Napster, the recording companies should dramatically reverse their policies: "Nearly two-thirds of those who download music from the Web say that their search ended in music purchase. Music labels should have been donating money to Napster users, not threatening to sue them and chase the site off college campuses." (Katz, 2001, 2)
- (4) It is hard to speculate but even harder not to. The most probable outcome of a court case would probably allow for the brochures and posters within the Benetton boutiques but ban the campaign products from public space: billboards and large street posters. This is, at least, what happened in the case of the controversial photographs of male nudes by Robert Mapplethorpe, which were confined to a single museum at the entrance to which clear warning signs asked minors and people who were likely to be offended to stay out.
- (5) Donath is quoting Zahavi (Zahavi, 1993)
- (6) In the early 1980ies, prior to the explosion of the Internet, it was quite common for students to copy the books (especially expensive academic handbooks) making use of cheap reproduction technologies and to sell them illegally well below the bookshop price. Internet has served both as a facilitator and as a gate-keeper of this activity. On the one hand it facilitated copying and on the other it has limited copying to the small

groups of students within a single university's intranet or to the more focussed copying of those parts of books which are needed.

- (7) Fear of a growing unholy alliance between governments and business communities with superior technologies is very much present in most expert reports on the developments of ICT. Talking about feasibility of global regulatory environment enforced with the new technologies, Manuel Castells says: "For instance, if a financial tax (or mandatory deposit in the mode of Chile) were imposed on short-term transactions, all electronic financial networks could be programmed to include automatically such tax, rerouting the amount to a different account. In fact, you already have in your Windows 98 an individualized code that marks automatically all your computer documents in their trips around electronic networks (Microsoft just forgot to tell you). (Castells, 2000, 69)
- (8) Perhaps the most interesting comment on the possibilities of digital reproduction of books, records and films has been made by Stefik when he said that: "At its core, the drive towards digital commerce and publishing is a shift that lets local business increase their global reach by taking a shortcut through the cyberspace. However, cyberspace is not only fast and ubiquitous: it is also largely invisible and intangible. By relying on cyberspace as it exists today, we are moving from a local commerce in tangible goods with neighbours that we more or less know and trust to trade in invisible goods with people we do not know who use computer systems that we need to trust.(Stefik, 2000, 77)
- (9) Parallel to the symbolic mobilization of the Napster users with an aesthetically and morally shocking campaign, one could also design or stimulate a grass-roots protest action, should the court close Napster down. Those concerned with the future of on-line communities and their role in the shaping of the corporate identity of their Napster-like platforms, could probably also stress the democratic nature of peer-to-peer networks and the necessity to protect them from regulatory activities of governments and business corporations:

"It is not just nation states and international regulatory measures that have come to stress the possible role of self-regulation in internet praxis. A number of representatives of other groups, such as Jonah Seiger of the Center for democracy and technology, have also come to believe that 'the only way to control information on the web is to rely on end-users.' Esther Dyson, the chairman of the Electronic Frontier Foundation, celebrated the striking down of the Communications Decency Act, commenting that 'the court decision takes the responsibility for the controlling and accessing speech on the net out of the hands of government and puts it back where it belongs: in the hands of parents and other individuals.'"(Slevin, 2000, 224)

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