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The Dialectic of Creativity and Ownership in Intellectual Property Discourse

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Abstract: Ownership is often understood merely as a function of social relations, that is, it emerges merely because of the relations between people with respect to the things that they own. Concomitantly ownership is also seen as being dependent upon creativity to bring its force into motion. Far from dismissing such a view of ownership, it is acknowledged that such a view possibly comes from a world that is preoccupied with creativity. This discussion aims to show a particular kind of dialectic between creativity and ownership that underlies discourses about intellectual property especially in countries like Papua New Guinea. Through an ethnographic concern with personal names and their attendant claims to ownership and creativity, this paper aims to show how two trajectories of ownership co-exist in a Papua New Guinea society.

INTRODUCTION

Implicit in the anthropological assumption that ownership is a function of social relations[1] is a view that takes ownership simultaneously as a correlate of social

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relations and as a phenomenon that is contingent on creativity. Far from dismissing this view, it must be acknowledged that such a view of ownership comes from a world that is preoccupied with creativity. Although anthropology has received admonitions about the "explosion of concerns with ownership"[2] and is witnessing a burst in the "explosion of concerns in creativity,"[3] I wish to argue that the ideological assumptions that detonated these metaphorical explosions are located in dialectically opposed camps of analytical concerns with creativity and ownership.

This article delineates a dialectical contrast between ownership and creativity as exemplified in the discourses of intellectual property in Papua New Guinea (PNG). To situate my argument, I take a case study from the Iatmul village of Kanganamun where two totemic moieties have been contesting the rights to use a particular fishing lagoon. This oxbow lagoon was created through amending the banks of the Sepik River. One moiety has been seeking to use the lagoon because of the work it claims to have put into creating the lagoon, while the opposing moiety denies this claim on the grounds that they own the names connected to the land on which the lagoon was created. The ownership of the personal names is continuous with the ownership of the land that bears the name. These names will be compared with the introduced law of trademarks in PNG and the discussion will use the legal notion of a "chose in action" to extend the idea of conceptualizing land as intellectual property recently proposed by Marilyn Strathern.[4]

CREATIVITY AND OWNERSHIP: A LESSON FROM TAKASEP LAGOON

In the 1950s men of Kanganamun village undertook an arduous process of redirecting the course of a particular stretch of the Sepik River that runs down past the village to an area that has a long winding bend located to the east of the village.

The village people realized that if they redirected the course of the river, they would create a new oxbow lagoon. This involves digging a trench along an area of land where the river bend is small enough to demand less effort and time. When the amendment was effected, an island was formed out of what was previously a long winding bend. The water surrounding this artificial riverine island became the lagoon. The land area on which the diversion is made is called Mankambu and is owned by the Nawa clan. The Nawa clan belongs to the *nyowi nimba* totemic moiety and its men's house is called Wolimbi. The other two men's houses, Minjimbit and Kosimbi, belong to the other moiety, *nyamei nimba*. While the project of creating the lagoon was going on, the then–village *kansol* (councillor)[5] foresaw that the creation of the lagoon will give clans of Wolimbi a new fishing lagoon. The *kansol* was an astute man called Gonduan from the Wanigo clan, which is an important clan in traditional village leadership within Kanganamun. Gonduan was married to a woman from a clan in the other totemic moiety. The lagoon to which his affines had right of access was far away, whereas the nearby lagoons were under the hands of his moiety. He was moved with emotions for his affines. He thought

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that if he could bring in his affines to work on digging the trench through the bend where the river meanders, they would have the rights to use the lagoon.

Gonduan then made Wolimbi men work in the village and sent his in-laws downstream to dig the trench. However, Gonduan's strategy was soon discovered. Women of Wolimbi, who were returning home after fishing in the nearby Takaripi lagoon, saw men from Minjimbit and Kosimbi working on the trench and reported their discovery to their menfolk. Gonduan's strategy was exposed, and he was reprimanded by men of Wolimbi who argued that Gonduan's in-laws could only create the lagoon if they owned the land area around which the river meandered. They argued that the men of Minjimbit and Kosimbi did not have the rights to use the lagoon just because they had worked to create it. Ever since then, the fishing lagoon has been used only by clans of the Wolimbi. Minjimbit and Kosimbi clans have been unable to do so despite numerous efforts to persuade their Wolimbi counterparts.

The primary basis on which the clans of Wolimbi prevented Minjimbit and Kosimbi clans from the initial right to work on the lagoon stem from the ownership of personal names associated with the land area through which the trench was dug. These names are owned by the Nawa clan and further mythological information is withheld. The names, which are said to be bound up with this land area, begin with a pair of names called Kapaimari Sangamari. The names of places, such as where the land area is located, are also names of people; so it follows that any name bestowal that appropriates the place name is also an explicit claim of ownership over that particular area of land, waterway, lagoon, or the like.[6]

IATMUL NAMES AND THE DIALECTIC OF CREATIVITY AND OWNERSHIP

Iatmul names are owned as valuable possessions of individual patrilineal clans. Each clan has a stock of names that run up to several thousands.[7] An intriguing system of memory is used in preserving the knowledge of these names. In Western Iatmul Wassmann[8] has uncovered the evidence of a mnemonic device called *kirugu*, which is a knotted cord that contains the names and the stories associated with the activities of cosmological heroes in a primal migration. The migration of cosmological heroes and the different kinds of activities provide the contexts that name the names that Iatmul now have. No mnemonic devices have been discovered in other parts of Iatmul. Bateson thought that the preservation of these vast numbers of names is connected to a system of rote memory,[9] but I suspect it is based on a cognitive map that allows men of erudition to recall and recite these names in a particular order. Although Iatmul society is patrilineal in cast, links to the mother's side is of vital importance.

Each Iatmul parent gives a name to their children. However, the name from the mother's side returns to her clan after the death of the name bearer. The names

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are bound with a dualistic conception of the human person and indicate the relationships that compose him or her. Either name can be used, but one is commonly used throughout a person's lifetime. It is believed that a person lives in the world of the dead by the name from the mother's side, whereas the name from the father's side is reincorporated into one's own clan. The onomastic return of names to their clans of origin is consistent with a dual conception of a person as an embodiment of paired siblings conceptualized in terms of life and death. Names are also understood as siblings, and they appear as pairs in name lists. Every clan has several thousand lists. Like life and death are paired as siblings, and names are also paired in a similar vein.

A man who has undergone initiation is given a secret name from his mother's clan. This secret name comes with privileges and obligations including opportunities for the nephew to know aspects of his mother's clan's body of stories and secret knowledge associated with their names, use totemic objects from the mother's clan and to participate in totemic debates in support of his mother's brother. Although men are the prime custodians of these names, some women also know the names and stories associated with their clan. When a man has grown old by the time he has children, he shares his knowledge with his sister, who will later tell his children.

Iatmul do not manufacture names. The names that they have came through with and intimate their cosmological understandings of the world. Thus, the meanings of their names also remain constant and endure, because they have always been known. Although the names and their meanings remain the same, most names carry the idea of a particular agent being active in doing something. These personal names are also place-names (toponym). All aspects of their cosmology are endowed with personal names, including celestial and terrestrial configurations as well as flora and fauna. Bequeathing a particular toponym to a person is an act of bestowing such a name, an act of ownership. A name of a lagoon, waterway, or mountain could also be the name of a person, and the clan that owns the name also owns the lagoon, waterway, or mountain. The names are not derived from geographical features, but they intimate a history of cosmological creativity and endow the places with a particular kind of specificity and identity. In light of this, one could say that Iatmul place-names are what some theorists describe as *incident names* and *possessive names*. They are incident names insofar as they recall a specific event associated with a particular location. They are possessive names, because they recall the involvement of individual cosmological heroes with the particular location in question so that the names indicate ownership and control.[10]

The important sociological quality of Iatmul names is their relational dimension. Each name has a paired sibling, and the suffix of the name indicates the name's gender. The use of one name therefore anticipates its gendered counterpart. The names are managed by sharing knowledge about the clan's totemic lore and its concomitant esoteric significance. The clans are distributed throughout the Iatmul speaking area reminiscent of a "rhizome."[11] When there are disputes

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over the theft of a name, or when a clan loses its knowledge through the death of an erudite man, surviving clan members go to their relatives in other villages to replenish and re-equip themselves with knowledge about their clan through exchanges with clan members in other villages. One immediate pointer of clan connection throughout the region comes from the system of *wasari* or same-names. Wherever you find people having a same-name, it is likely that they belong to the same clan. I have often seen men having same-names proudly refer to themselves as *yaranga ndu*, literally meaning *clan-man*. In general, therefore, when approaching the Iatmul from the perspective of names, we see an ensemble of names, and beneath this ensemble is an interlacing network of relationships anchored firmly in a core of totemic cosmology.

Names give identity by establishing specific limits and boundaries around that which they name.[12] That which they name carries a semiotic and social significance because they anticipate the conduct of relationships between people. This is where names function in ways that are reminiscent of the character of ownership in its ability to designate owners and to delineate the limits of ownership. This, then, is the context in which I would like to compare Iatmul names with trademarks and discuss how that renders possible the idea that land could indeed be conceptualized as intellectual property. However, before pressing on with this idea, I would like to highlight another issue that is implicit in the previously cited account concerning the fishing lagoon. Here I would like to draw attention to the manner in which people in Kanganamun were discussing how ownership comes into play for them.

Gonduan argued that if you pour your sweat into physical work at the lagoon, you could claim rights to use the lagoon for fishing. This is a familiar argument in Iatmul. Often, the Sepik River gives and takes away land from them as it changes course or erodes its banks. Once this results in a new area of land, people can cultivate it, which grants them right of ownership over it. This appears to be the argument that Gonduan sought to use in relation to the lagoon in progress. His clansmen in Wolimbi, however, countered that men from the other two men's houses could not dig the trench and create the lagoon because they do not own the land surrounding the lagoon. In this vignette, therefore, we encounter a critical dialectic that underpins the manner in which Iatmul articulate their claims of ownership. Until this day the view that usurps precedence is the argument that you could only create things from that which you already own, such as the lagoon. Alternatively, you can own things such as new gardening land by making gardens from newly available land that does not have personal names attached to it. The latter view makes ownership appear as potential waiting to be created, whereas the former makes creativity a potential contingent upon ownership.

I have used this account also as an ethnographic conceit to make visible what I have come to discern as a critical dialectic between creativity and ownership. Apart from Wagner's concern with creativity, which provides him the opportunity to theorize about the innovation of meaning and human agency, Leach provides a

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recent exegesis on creativity in PNG.[13] The wider global and politico-economic context in which Leach is writing is provided by recent and ongoing concerns about the applicability of the regime of intellectual property rights to non-Western societies such as Papua New Guinea. Anthropologists in the United Kingdom responded to this concern through a research project entitled Property, Transactions and Creativity: New Economic Forms in the Pacific. The project was managed by Marilyn Strathern and Erich Hirsch and ran between October 1998 and December 2001. It was within this global and academic context that Leach[14] advances the notion of modes of creativity

Leach is concerned with identifying differences between Western and Melanesian *modes of creativity*. The theoretical framework in which Leach is writing is shaped by the difference between the *individual* and the *dividual* agency originally developed in *The Gender of the Gift* by Marilyn Strathern. Leach observes that Western forms of creativity are based on individual agency, whereas Melanesian creativity is based on the agency of significant social others. However, allocating social relations with an agentive capacity does not explain why social relations must appear in this way in Melanesian societies. In transferring the locus of agency from the individual to the dividual, agency serves as a measure of difference between Western and Melanesian modes of creativity. By locating the creative powers of the creative individual and the dividual, the analysis ends up with an excessive preoccupation with creativity rather than with ownership. Thus in the notional modes of creativity, ownership appears as a basic function of relationships, its force is contingent on creativity and lacks any powers of social constraint, as it does among the Iatmul or elsewhere in Melanesia. Ownership is not just a function of relationships, it constrains and imposes a particular form to social relations which are mobilized around the claims and counterclaims of ownership. This therefore puts creativity and ownership in a dialectical relationship with each other. The following discussion aims to clarify this dialectic between ownership and creativity, through a digression that focuses on how land could be conceptualized as intellectual property.

LAND AS INTELLECTUAL PROPERTY

Marilyn Strathern recently proposed that the nature of relationships that people in Melanesian societies have toward land provide a way by which one could conceptualize land as intellectual property.[15] This is based on the realization that the sense of entitlement and claims they pursue in litigation stems from the view that they see land as a resource that generates other resources and becomes entangled in people's relations with one another. Creativity is part of the language of analysis she deploys to scrutinize Western notions of *productivity*. In thinking about land as a resource that produces other resources, she queries the distinction that Western (Euro-American) property law makes between the tangible and

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the intangible and how that distinction underlies a whole arena of property thinking. Her ethnographic argument is that products of the land are extensions of the land. Thus, it follows that the products of the land that come from tilling the soil and so forth are not just products of people's labor but are the extensions of the productive capacity of the land as a resource. In Western property law, there is a clear demarcation between entitlements based on the productivity of human labor and entitlements based on intellectual activity. This distinction becomes blurred in Melanesian contexts so that "either can indeed be an index for the other, for the fruits of the land are regarded as an extension of it, that is, as land existing in another form."[16] Although this analytical play on forms is delivered through an epistemological practice of revelation and concealment in Melanesian cultural practices, she also draws attention to the fact that in eighteenth-century England when ideas of authorial copyright were being developed, intellectual property was also compared to land. "While . . . the most common metaphor employed to represent the author's relation to his writing is paternity (the author as begetter and the book as child), others included the author as singing shepherd, vessel of divine inspiration, magician—and tiller of the soil."[17]

With this in mind, let us see how this applies to the Iatmul case under discussion here. A spot in the land area described above is associated with specific cosmological heroes who had travelled along this area, gave the place its name and who continue to exercise benign influence over it. The aforementioned lagoon above was created out of land that has a *name* that belongs to a lineage, clan, and even a totemic moiety at large. What Strathern writes for her Hagen context is also valid for the Iatmul and particularly relevant to the argument here:

> The rights people had to enjoy the fruits of the land would depend on their entitlement through their links to the clan and its former members. We could think of that name as a bit like a trademark at least insofar as it is a name to which exploits are attributed and reputation accrues. It is simultaneously attached to the land and to those living there who walk around with its name on them, and engage with others in the name of the clan. Entitlement to use the name of the clan, regard oneself as a member, is restricted. But if it has analogies to property then Euro-American law would make a radical difference here. The timber, like the land it has come from, is tangible, 'real' as in real estate. It is possible to have possession of such items. By contrast, trademarks are primarily, as the lawyers would say, 'things in actions': rights that can only be enforced by legal action as opposed to rights of possession. They belong to that class of property, intellectual property, generally described as *in*tangible. Of course such property takes material form, but what is protected by the rights is the creative effort or (as here) image and reputation that is manifested in these forms. Thus copyright law exists to prevent others from taking advantage of one's creative activity. It must have a material expression, say as a particular text, but as a text, not as the printed page or the book. Similarly patent law can only be applied to artefacts, to things made, but what is pro-

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> tected is the right of the inventor to prevent others from exploiting without permission the original combination of ideas, knowledge and effort that led to the invention.[18]

I have noted that Iatmul names establish a boundary around that which they name. The names also specify the limits of ownership associated with specific named areas of land. Thus, a boundary appears as providing a basis of intellectual property rights in land. However, although such a boundary

> is not protected by a legal system, it is certainly a thing-in-action insofar as the rights to establish a boundary can only be perpetuated through people defending or activating it, that is, by the clan acting in its full territorial extent. This might echo the need to keep up claims to possession—a clan member has to activate particular claims to particular gardens by gardening there or loses rights to them—but what is at stake is the intangible concept of the clan and its name.[19]

In comparing Iatmul names with trademarks, I want to emphasize that a trademark is a distinctive sign, such as a name, that is used by business establishments to distinguish and identify themselves and the products and services they offer to their consumers. The discussion focuses on the nature of identity and the ownership rights associated with such identities. In comparison to the industrial nature of intellectual property, trademark differs from other types of intellectual property in the sense that it is a right enforceable through legal action (choses/thing-in-action) and not by rights of possession.

COMPARING IATMUL NAMES AND TRADEMARKS

The Trade Marks Act of PNG came into force in October 1978. It is enforced by the PNG Intellectual Property Office, which comes under the Department of Trade and Industry. The Act is divided into 14 parts and contains a total of 106 sections that provide for various aspects of the legislation. To complement and give effect to the aspirations of the act, a Trade Marks Regulation was enacted, which came into force in 1979. The regulation is the mechanical aspect of enforcement that specifies the procedures, processes, and documentation or the necessary paperwork used in the enforcement of the Act. A detailed study of this Act and regulation are postponed at this stage, save the following observations.

Trademarks are defined in the Act as

> a mark used or proposed to be used in relation to goods for the purposes of indicating, or so as to indicate, a connection in the course of trade between the goods and a person who has the right, either as proprietor or as a registered user, to use the mark whether with or without an indication of the identity of that person.

Such a definition makes obvious the crucial function of trademarks to communicate the connection or identity between a commercial good or service as-

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sociated with those who own the right to use the mark. A mark, on the other hand, is generally defined by the Act to include items such as "a device, brand, heading, label, ticket, name, signature, word, letter or numeral, or any combination of them." Such a mark allows manufacturers and traders to help identify the kinds of goods and services they make and sell in distinction to those of others. Through their use over time, such marks become mingled with quality and customer expectations so that trademarks may themselves become the kinds of signs and meanings that are transacted and consumed. What is registered is not the trademark itself but a representation of the trademark, so it follows that the sign that is registered, commodified, and transacted is actually a "representative representation."[20]

The Trade Marks Act is not concerned with the history of a particular name or the mark(s) that is (are) used by a registered user. Such information is known only to the person who registers and uses that particular trademark. Whatever context such a mark is drawn from is irrelevant. What is important is the mark itself and its ability to become the register that aligns the identity of trade goods with its owners or proprietors. Thus, the mark may be drawn from conventional lexicons or metaphorical usages and is then transformed into a commercial sign for purposes of communicating and retaining the identity of its users in the course of trade.

Section 52 of the Act indicates that a trademark can expire and therefore it is subject to a process of continual renewal to validate its legal ownership. But to be registered in the first place, it must meet stringent criteria of registrability (sections 15–31). However, the application for registering a trademark can be contested in court (section 25) if a rival competitor has a claim on the same trademark. Once registered it can be altered, but it must retain a clear resemblance to the original trademark. Over time, however, if a trademark is not used, the registration can be annulled (section 14). We will return to some of these points through a comparison with Iatmul names, but presently I want to return to the dialectic between creativity and ownership that underlies this discussion.

One distinguishing feature of trademarks from other regimes of intellectual property, especially patents and copyright, is the manner in which creativity comes into play. For copyright and patents, one must create something to be credited with its intellectual origins and also have the right to own, use, and benefit from the use of such works of creativity. Copyright in particular instantaneously grants rights to those who author works of original creativity, whereas trademarks require registration with the trademarks office for its ownership to be legally recognized once it endures the criteria of registrable marks.

Trademarks are not often seen as a register of intellectual creativity, so the rationale of creativity that is evident in patents and copyright cannot be easily applied to trademarks. Along these lines, Sherman and Bently have observed that

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> while some trademarks may be invented, novelty is not a prerequisite to protection. These differences have not stopped some commentators to extend the idea of creation to encompass trade marks. This has been done by claiming that a trader creates goodwill as much as an author creates a work, that a trademark must be created to be protected in the sense of being either invented, or by virtue of the fact that a new association between the mark and the product, that is, a new meaning, has been created. Nevertheless, the attempts to justify trademarks or goodwill as creations are weak, in part because while associations between the mark and a source or goodwill may be instigated and nurtured by the trader, they are as much created by or for the customers and the public.[21]

This makes trademarks appear as a special kind of intellectual property. However, the act of registration could be seen as an act of creativity that brings ownership into existence. Registration thus imbues law with an instrumental agency that is able to bring forth, recognize, and validate the ownership of a trademark. Because registration is open to rival contestation, it is much like the Iatmul moieties that were seeking to create the lagoon previously described. One moiety used the creativity argument to use the lagoon in the future, and the other denied it on the grounds that the opposing moiety does not own the names on which the trench is dug to create the lagoon. This brings us to some comparison with the nature of name ownership in Iatmul.

Unlike the trademarks, Iatmul names always recall or intimate their cosmological origin. Iatmul names enrol the service of time, place, subject, object, and verb into a kinaesthetic play of meanings so that the names indicate a process of perpetual motion. The temporal life of these names is at once historical and contemporaneous and requires no constant renewal to validate its legitimacy as a credible name. When Iatmul make claims of ownership to a particular name under dispute, they always voice their claim in a language couched in terms of present tense. "I, Walindambui, I took part in the ancient migration! . . . I am Kevembuangga. I put my foot on the mud and made it so hard that people could live. But for me there would no people. I steered the canoe which brought my clan to this place."[22] In general, the ownership of personal names in Iatmul or Sepik River societies thrives on a rhythm of temporality that operates by recalling and collapsing the past and the future into the contingencies of the present. Ownership appears as a historical and biographical phenomenon, and its autobiography intimates the biography of its claimant. In so doing the claimant is at once an individual and a clan. In enrolling time in its service, ownership sustains itself as a perpetual concern that carries itself over time through successive generations, and it powerfully reveals itself in moments of litigious encounters. In enlisting the voice of its claimants, it makes itself a distinctive social phenomenon, and in places such as Iatmul, a single claimant could also be a clan or a moiety.

In addition, unlike trademarks, Iatmul names are never altered, and they cannot be subjected to an envious competition with identical or similar names (sec-

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tion 24). With the Iatmul, competition and rivalry appears only when the same-name is given to someone in another clan. The person who is given a particular name is not considered the *representative representation* of a cosmological hero, but he or she is that cosmological hero, except that the conception of identity involved here is not absolute but contingent.

The final point of comparison relates to the nature of litigation, especially the nature of evidence that is adduced in the prosecution or the defence of a particular claim. Rival claims of ownership in the trademarks regime require that a case is prosecuted in a court of law by fulfilling all its requirements of evidence, procedures, and remedies. The evidence of the competing claimants is laid out more or less transparently before the court for purposes of adjudication. Precision and exactitude organize the nature of evidence that is brought before the court. In Iatmul when claims of name ownership are articulated in a ceremonial debate, however, claimants themselves may be the evidence (that is, subject and object) of a particular claim; and when articulating their claims, they always conceal the real meaning of a name under dispute. By employing dense metaphorical allusions, they take ambiguity as critical to maintain the esoteric significance of the names.

INTELLECTUAL PROPERTY AND THE DIALECTIC OF CREATIVITY AND OWNERSHIP

The prior discussion showed how the ownership of names among the Iatmul is bound up with the ownership of resources such as land and lagoons. The Takasep lagoon story indicates that there is an interesting dialectic underlying concerns of ownership and creativity, which are currently in vogue in the discourses on intellectual property rights. In comparing Iatmul personal names with the trademarks law, I rely on what Riles calls the "expressive and instrumental genres of law" to highlight what might be called "trajectories of ownership."[23] Thus, I have approached the Trade Marks Act of PNG as a cultural text worthy of analytical extrapolation.[24] Introduced law shares a coeval existence with other cultural practices of creativity and ownership in contemporary PNG in the same vein as two totemic moieties in Kanganamun village might use arguments from creativity or ownership to assert their claims of ownership. By employing a heuristic dichotomy between modernity (introduced law such as trademarks) and tradition (customary lore such as Iatmul name ownership), the thrust of the argument can be represented in Figure 1.

The notion of *trajectories of ownership* is derived from the manner in which Strathern[27] has conceptualized ownership as *an extended agency*,[28] and of how Wagner[29] has conceptualized creativity. In his distinction between Western and tribal (such as Melanesian) forms of creativity, Wagner[30] observes that Western creativity is based on a causal linear logic, whereas the latter is based an analogic or dialectical reasoning. The theoretical framework in which Wagner wrote is con-

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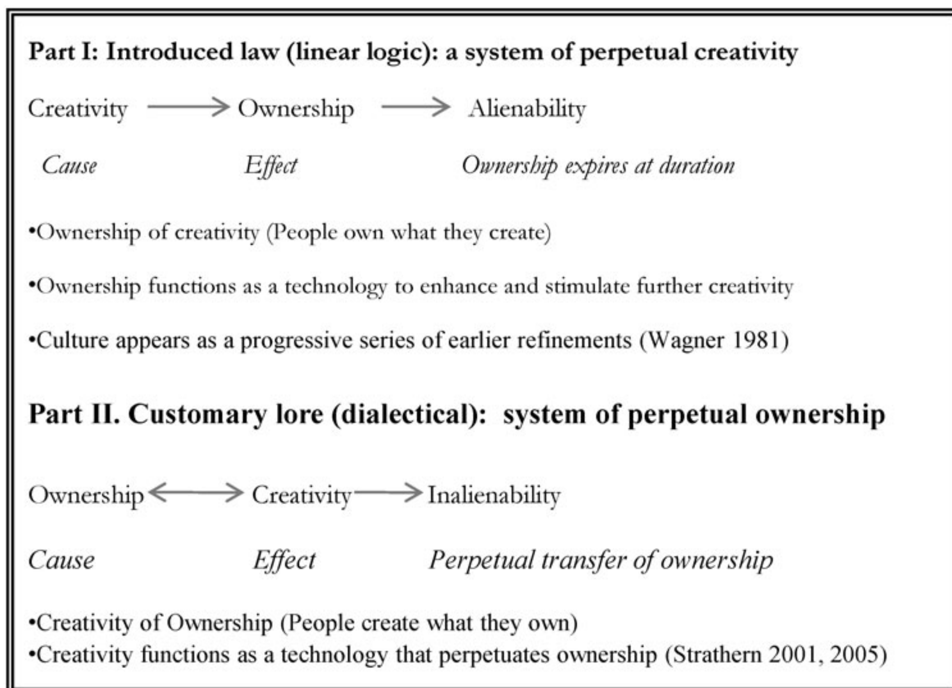

FIGURE 1. Trajectories of Ownership: A Schematic Representation.[25,26]

cerned with symbolic reasoning, and the characterization of these two contrasting forms of creativity provides him a gloss by which he can conceptualize the invention of meaning across cultures and account for human thought and motivation that is constrained within the dialectics of structure and agency. Wagner's exegesis contains casual references to patents,[31] which exemplify the notion that Western culture is based on a series of perpetual refinements of earlier creativity.

In Strathern's recent analysis of the *malanggan* and the patent,[32] one may realize the theoretical implication of Melanesian forms of creativity that Wagner glosses over. Wagner is not concerned with ownership, and the rendition here is mine. Strathern departs from previous anthropological analyses of the *malanggan*, which have considered it a traditional form of copyright concerned primarily with reproduction of forms in which ideas are expressed.[33] She observes that *malanggan* compares closely with patents because it is concerned with the protection and the reproduction of ideas and processes underlying innovative processes that have technological applications. Strathern writes in the context of how Westerners consider themselves to inhabit technology both in (the English) language and in the aura and pervasive presence of technology. Her exegesis works on a contrast between the enchantment of technology exemplified by patents and technology of enchantment imagined through the *malanggan* sculpture as the body of a dead person's life force.

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Malanggan is a sculptural art form associated with mortuary rituals practiced among New Irelanders of PNG. The ritual is held to commemorate the life of a deceased person, and the sculpture is made to serve as a skin or body of the deceased person. The deceased is about to become an ancestor of the clan, and the *malanggan* sculpture contains and is contained by ancestral agency. After the sculpture is made and ritual protocols and procedures observed and executed, the sculptures are decimated soon after they are displayed in public. Sculptures come in the form of humans and animals whose images are owned by individual clan groups and transacted during mortuary rituals. A sculpture is often carved by a person who does not own the rights to reproduce the image. Through the aid of magic and dream, the carver translates the likeness from the memory of the person describing the image. The carver is compensated for his skill, but the representative carving is owned by the person who commissioned its reproduction. During the mortuary ritual, the right to reproduce such an image is transacted, often with affinal clans who then secure rights to cultivate garden lands associated with the deceased person, whose life and biography was temporarily contained and then dispersed through the technology of the *malanggan* ritual. All the anthropologists who have focused their analytical energies on interpreting the *malanggan* recognized that the central theme is about the perpetual transfer of ownership, and for the most part the owners act with other owners in mind.

Strathern finds interesting ways in which *malanggan* closely compares with the patent, and her analysis describes ownership as a mode of habitation through the lens of the *malanggan* and the patent. "Ownership is a kind of second skin . . . a world through which people are infinitely interconnected through inclusions and exclusions of property relations."[34] Although her conception of ownership is used as shorthand for property relations, her conceptualization of ownership as an extended agency is pertinent to this argument. This position is also grounded with insights from one of the important ethnographers of the *malanggan* culture, Michael Gunn, who has repeatedly stressed that the primary concern of the *malanggan* sculptures and its concomitant ceremonial is the transfer of ownership.[35] By this he refers to the Tabar word for ownership, *vuna*, which carries the significance of an originating cause. An owner of a *malanggan* initiates the process of creating and transmitting the images that are transacted through the funerary ritual. Although I have not discussed it here, the Iatmul initiation ritual, *bandi*, operates on a similar logic whereby initiated men of one moiety assume the right to request the initiation of their sons by giving them away to be initiated by men of the opposing ritual moiety, thus furnishing the idea that ritual owners create future owners of the rights to reproduce the *ritual as intellectual property*.[36]

Ritual as intellectual property is an ethnographic insight that inspires discussion about the trajectories of ownership in contemporary PNG schematized here. As we have seen in the case concerning the fishing lagoon, the owners have the right to initiate the act of creativity, and in Iatmul this is constrained by the ownership of personal names. Because the bestowal of Iatmul personal names is also

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an act of ownership, I have sought to render intelligible how such names are comparable with trademarks to both advance the notion of land as intellectual property and bring out the dialectic between creativity and ownership evident in contemporary Papua New Guinea.

ENDNOTES

1. See for instance Hann, "Introduction: The Embeddedness," and Leach and Kalinoe, *Rationales of Ownership*.
2. Strathern, "Division of Interest," 216.
3. Hirsch and Macdonald, "Introduction," 2.
4. *Land: Tangible or Intangible*.
5. Councillor, known in *Tok Pisin* as *kansol*, is a Western-introduced system of village leadership.
6. An extended discussion of Iatmul naming system is given in Moutu (n.d.).
7. See also Bateson, *Naven: A Survey*, Silverman, *Masculinity, Motherhood and Mockery*, and Wassmann, *The Song to the Flying*.
8. "The Nyaura Concepts."
9. *Naven: A Survey*.
10. Barber and Berdan, *The Emperor's Mirror*.
11. Bateson, "Social Structure of the Iatmul," 419.
12. Wagner, *Symbols That Stand*.
13. "Owning Creativity" and "Modes of Creativity."
14. "Modes of Creativity."
15. *Land: Tangible or Intangible*.
16. Strathern, *Land: Tangible or Intangible*, 16.
17. Strathern, *Land: Tangible or Intangible*, 8.
18. *Land: Tangible or Intangible*, 7.
19. Strathern, *Land: Tangible or Intangible*, 7.
20. See Sherman and Bently, *The Making of Modern*, 739.
21. Sherman and Bently, *The Making of Modern*, 662.
22. Bateson, "Arts of the South Seas."
23. Riles, "Law as Object," 187–210.
24. Davitt, "The Basic Values in Law".
25. Wagner, *The Invention of Culture.*
26. Strathern, "The Patent and the Malanggan," and Kinship, Law and the Unexpected.
27. "The Patent and the Malanggan" and *Kinship, Law and the Unexpected*.
28. Compare Gell, *Art and Agency*.
29. *The Invention of Culture*.
30. *The Invention of Culture*.
31. Wagner, *The Invention of Culture*, 23.
32. Strathern, "The Patent and the Malanggan."
33. See the volume edited by Lincoln, *Assemblage of Spirits.*
34. Strathern, "The Patent and the Malanggan," 12.
35. Gunn, "The Transfer of Malangan" and personal communication.
36. Compare Harrison, "Ritual as Intellectual Property."

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