

BEYOND THE COMMONS

Intellectual Property and the Masks of Enclosure

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It has become commonplace in recent social analysis to characterize the continued expansion of intellectual property as a process of enclosure. Drawing upon the analogy of historical enclosure of common lands, it is often argued that an increasing commodification and privatization of knowledge and information is leading to 'enclosure' of the 'intellectual commons' of the public domain, conceived as a store of resources that should ideally remain a place of free-for-all open access.

This phenomenon of enclosure, however, has been understood almost solely in opposition to the concept of the commons, or common property, understood as a pool of resources. As a result, discussions about enclosure and intellectual property have predominantly revolved around issues of access, control, and ownership. "Who owns it?" has become the prime question, with "What are we allowed to do with it?" coming a close second. Debates about enclosure and the commons have become debates about how we formally manage resources. This has had the effect of dessicating discussions to the point of presumed irrelevance for most people as they go about their everyday lives.

There is another way to understand enclosure, however. By taking analysis out of binary opposition with the commons we can come to an understanding of enclosure that goes 'beyond the commons'. In this presentation it is argued that we can understand the processes and practices of enclosure on their own terms. Anthony McCann argues that enclosure arises from a pervasive underlying principle - a general expectation of **THE ELIMINATION OF UNCERTAINTY.**

Rather than being solely an esoteric legal issue, an understanding of enclosure is relevant to our everyday lives. Enclosure, it is argued, is a particular character of relationship with ourselves and others, grounded in certitudes and characterised by an unhelpful oppositional politics of claim and counterclaim. We can still associate the dominance of intellectual property thinking with practices of enclosure in this way, but we can also reassess many other ways of thinking, speaking, and doing as enclosure. Ways of being in the world that overly concern us with control, order, safety, perfection, possession, necessity, inevitability, access, freedom, entitlement, and the satisfaction of desires can get us caught up in cycles of justification, persuasion, and even coercion, whereby we participate in the personal politics of enclosure in a bid to eliminate uncertainty.

Anthony McCann is a graduate of Queen's University Belfast (B.A. Joint Honours, Celtic Studies and Spanish), University College Galway (M.Phil, Irish Studies), and the University of Limerick (Ph.D., Ethnomusicology). His awards have included a Fulbright Award, a Government of Ireland Scholarship, and the 1998 Charles Seeger Prize for Ethnomusicology. In 1999 he acted as co-coordinator of a UNESCO/Smithsonian World Conference entitled "A Global Assessment of the 1989 UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore: Local Empowerment and International Cooperation".

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