

31 May 2019

Value Manifesto GmbH
Grenzacherstrasse 92
CH-4058 Basel
Switzerland
CHE-155.867.983

By email only
to info@valuemanifesto.ch
cc timo@niemeyer.info

Dear Sirs,

Your infringement of my intellectual property rights in *This Much I'm Worth (A self-evaluating artwork)* (2014 - ongoing)

My name is Rachel Ara and I am an artist.

I am the creator of the internationally exhibited and award-winning *This Much I'm Worth (A self-evaluating artwork)* series (the "**TMIW Series**") of artworks and I am the owner of the copyright and other intellectual property rights in the same. This letter explains why your "Value Manifesto crypto-multiple" (the "**VM Piece**") due to launch on 12 June 2019 in Basel infringes those rights.

I have taken detailed professional legal advice on my position. This letter requires you to take immediate action to bring an end to this infringement and provide me with the urgent assurances requested herein.

My rights in the TMIW Series

In 2014 I completed the first prototype in the TMIW Series. In 2016 this prototype was the winner of the International Aesthetica Prize. Images of the prototype as exhibited in that prize (switched on and switched off) are below.



This work is an artwork that continually calculates its own sales value based on complex algorithms called "The Endorsers". This value is then displayed on the 7 digit nixie display. During gallery hours this price will fluctuate in real time, again dependant on many factors e.g. audience behaviours, changes in the market. It is an artwork that claims the value as the art, commenting on the art market and hyper-capitalism. It also addresses algorithmic bias, especially in terms of gender.

This work and larger versions I have created in the TMIW Series over the years have featured in major UK and international museums - currently they are showing at the

MMCA Seoul in Korea and MAK Vienna in Austria (Vienna Biennial). They have been written about extensively, including being featured on the front of the Financial Times Wealth magazine in the summer of 2018. A selection of press coverage for my TMIW Series is included at the **Annex** to this letter. The technical process by which I have developed and fabricated the TMIW Series is set out in detail (perhaps too instructive, in hindsight) on my website at <https://www.2ra.co/>.

Each work in my TMIW Series is undoubtedly an original work of sculpture that is my intellectual creation. The TMIW Series, developed in the UK, is protected by international copyright law pursuant to the Berne Convention and corresponding local laws, including the Federal Act on Copyright and Neighbouring Rights of 9 October 1992 ("**FACN**") in Switzerland. The same goes for the design and technical drawings created in respect of the TMIW Series and the texts I have written setting out the conceptual framework for the work.

The TMIW Series is also protected by unregistered design rights, and benefits from protection from unfair competition in continental Europe and passing off in the UK.

Your unlawful activities

It has come to my attention that you have plans to launch the VM Piece, pictured below, at a "cocktail party" in Basel on 12 June 2019, during the Art Basel art fair.



I have directed you to my website above, but I know that you already know it well, as your Timo Niemeyer explained to me by email on 30 July 2018 that:

"My team, family and I were extremely fascinated about your art projects of the last couple of years: we spent a lot of time on your website and were watching the interviews and the reportings with and about you."

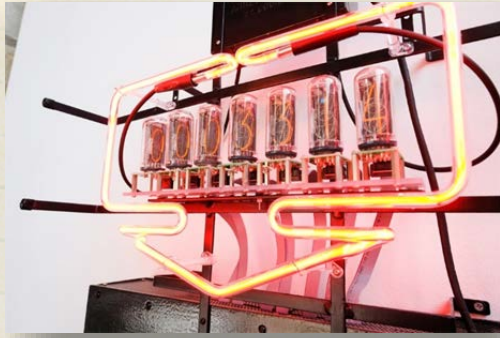
Mr Niemeyer also acknowledged in a separate email to me sent on 20 August 2018 that:

"with the discovery of your much earlier project, a new perspective was opened to my project vision"

Under the FACN it is an infringement of copyright to, amongst other things, copy the whole or substantial part of a work protected by copyright and to issue any such copies to the public.

There are remarkable similarities between the TMIW Series works and the VM Piece, as is immediately evident from a simple side by side comparison (TMIW Series works on the left, VM Piece on the right).





The two 'artworks' clearly have at least the following features in common:

1. Physical Build: Use of 7 horizontally-aligned Nixie Tubes

I realise that the use of nixies is not unique to me, but my specific configuration of them in an art context was a clear first. The reason for their use in my work is that they were used in old calculating machines - so they seemed a relevant material to use - to allude to counting and value. There is a trend of building nixie clocks that have SIX tubes - therefore easy to acquire a 6 board PCBs (printed circuit boards). I specifically went up to 7 as it was "different" and harder to duplicate - and moved it away from the commercial clocks. It also was a provocation for the potential price, both reasons that you cite in your material. You have used 7 tubes and cite similar reasons.

2. Physical Build: Scale

Similar scale.

3. Physical Build: Design

The nixies in both are just perched on their PCBs.

4. Concept: Displays Value in Real Time

Both works appear to display their value in real time and both fluctuate constantly dependant on "the algorithms".

5. Concept: Commenting on the Art Market

Both works comment on the state of the art market. One of my intentions was to comment on the fact that in some markets art has just been reduced to its value - therefore being slightly tongue in cheek and displaying the actual value as the art.

You also state that the machine's only purpose is to display its value as I have.

Other questions being raised: The Art market being unregulated, autonomy for the artist away from the market (although how copying another artist plays into this I don't know), reduction of art to value. One thing you have failed to comment on is the disparity of value between male and female artists.

6. Use of Internet of Things technologies / inbuilt WIFI

7. Machines talking to each other

As the number of my works increase, they are networked and exchanging data with each other, that will have an overall influence on the price. You also claim that your works are connected and exchanging data with each other.

The two works are so strikingly and uncannily similar, both formally and conceptually, that the only inference possible is that the VM Piece is a copy of my earlier works in the TMIW series. This inference is strengthened by the fact that you have, by your own admission, known about my TMIW series for at least 11 months

before your launch. Indeed, as you may have noticed, a great many people have drawn this inference on Instagram and Twitter already.

In the circumstances, the VM Piece reproduces a substantial part of the design of the prototype in the TMIW Series. This reproduction has been undertaken without a licence from me. Your activity therefore amounts to an infringement of my copyright, in addition to my unregistered design rights and rights to object to unfair competition and passing off.

Accordingly, I am entitled to bring legal proceedings against you in the Swiss courts and in any jurisdiction in which the VM Piece is made available for sale. A successful action by me for copyright infringement would result in you being liable to an injunction prohibiting the continuation of your activity. You are also likely to have to pay me damages or an account of profits resulting from your conduct and to reimburse my legal costs.

I have similar rights against secondary infringers - i.e. any dealer, gallery or other platforms dealing with editions of the VM Piece in the course of their business with knowledge of the circumstances surrounding the primary infringement.

Why this is important

My work very much addresses feminist issues, especially around gender and technology. In particular, it addresses inbuilt bias by technologists (usually by white males) and how they disadvantage women and people of colour. Prices of women's artworks are significantly less than those of their male counterparts which has all sorts of repercussions. For example, we tend to have less financial recourse, hence smaller studios, less time to spend on the work whilst doing other jobs and less funds to spend on our artwork. Not to mention caring responsibilities. We also have less ability (finances and time) to fight back when there are injustices or our ideas are plagiarized. Just look at the Guerrilla Girls "Advantages of being a Woman Artist". Art history is littered with men who have stolen ideas from women and never suffered for it. But maybe now due to social media, these women are starting to have a voice. It will be interesting to see how effective it is.

It is ironic that you quote the "readymade" and multiples, a concept from Duchamp, to support the validity of your work. Duchamp claimed to be the inventor of the readymade, and this claim formed the basis of conceptual art and cemented him in the history books. It is now coming to light that he probably stole the idea from a woman artist, Elsa von Freytag-Loringhoven - even admitting it in a letter to his sister!

It is particularly ironic that you should cite this example in support of what you have done on Instagram before deleting the posts shortly after:



I am grateful to have benefited from an outpouring of support on this issue and consider myself very fortunate that my modest level of success and visibility has led to my being connected to several sources of invaluable *pro bono* legal advice and pledges of further assistance. I owe it to a community of artists to assert and enforce my rights as strongly as possible, as this is a collective battle that we all must fight on a daily basis.

Action required of you immediately

I have written this letter with the benefit of legal advice, but I am keen to avoid formally instructing lawyers and issuing proceedings. I am hopeful that you will recognise it is in our mutual interests to settle this matter without a prolonged and expensive dispute. This is all the more important in the context of art whose value derives from the sentiment and discourse surrounding it.

In order to avoid any formal action being taken against you or secondary infringers, you are required to take the actions set out below by no later than **18:00 CEST on Friday 7 June.**

By this date you must:

1. Provide a full explanation of how you have arrived at a work that is so uncannily similar to mine;
2. Provide an explanation of why, when in possession of full knowledge of my work, you nevertheless continued with your project in this form. Did you ever consider it may have an adverse effect on my practice or the future development of this work? Why do you think I have dated the work '2014 - ongoing'?; and
3. Undertake to make significant changes to the VM Piece display system as soon as reasonably possible to remove the potential for ongoing confusion between our work.

Pending your response to these requests, I reserve my right to request that you fulfil such further terms as I think fit, which may include your making a sworn and notarised affidavit setting out the relevant factual background to this matter.

If you do not comply with the requests set out above by the deadline dictated, I may take formal action against you without further notice in order to bring an end to your unlawful activity. If such action is taken, this will, amongst other things, increase your liability to pay my costs in the event that I am successful.

Yours faithfully

Rachel Ara

Annex

A small selection of press.

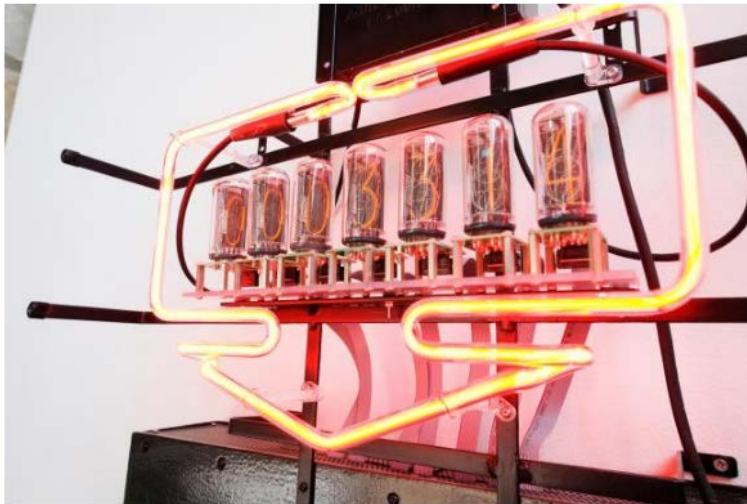
When the artwork won the International Aesthetica prize in 2016 it was featured on many websites and art newsletters and social media. Here is one cutting from the press.

14/04/2016, York Press

14th April 2016

Rachel Ara wins Aesthetica Art Prize in York with This Much I'm Worth..but how much is it worth now?

By Charles Hutchinson



Rachel Ara's This Much I'm Worth, winner of the 2016 Aesthetica Art Prize at York St Mary's

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June 2018, Financial Times Wealth

In June 2018 this work formed the basis of an article in the Financial Times, focusing on the concepts of the work. This was in relation to the larger work that carried forth similar concepts to the prototype.



THE VALUE FACTOR
ARTIST RACHEL ARA
HAS POSED
UNCOMFORTABLE
QUESTIONS OVER
THE PRICE OF ART

BY JAMES PICKFORD
 PHOTOGRAPHS BY CHARLIE BIBBY

are sure if you are thinking about buying Rachel Ara's work "This Must Be Worth It." Spend too much time examining this complex installation and its price will undoubtedly begin to rise.

This is because Ara has rigged it up so that, just that, whatever she chooses to do next will make her price rise. It is a hard choice to make, and her work displays the figures of her life's struggle.

There are other inputs that help this "self-evaluating artwork" set its value. Consigning artwork, selling artwork, and the price of art, which is not the price of the artwork, but the price of the artist or the work on sale. Whether or not a person is in the financial markets — will cause it to rise. A market crash, however, could trigger a collapse in its displayed value, which has ranged from £27,435 when it was first auctioned on a year ago to its price of £78,220, at the time of writing.

It is a playful work that nonetheless poses unsettling questions for the art world. Should we care more about the art that makes the biggest price tag? If the market investigates it, has it lost its intrinsic worth? What determines value and should artists care — or even if they asked not to?

As the most sought-after works have exploded in value in the past 20 years, finding the answer is a process that involves buyers and sellers, auction houses, collectors, investors and galleries and, though they may not always acknowledge it, artists themselves.

Self-evaluating artwork is a complex piece of art that is designed to rise in value over time.



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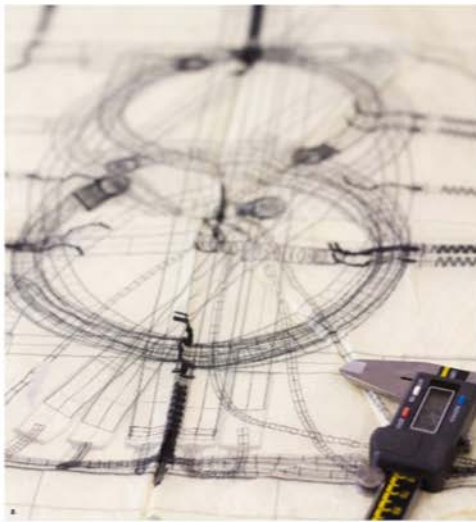
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