CASE STUDY:

MASS MoCA’S

“TRAINING GROUND FOR DEMOCRACY”

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Liviu Vasu

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CASE STUDY:

MASS MoCA’s

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Approved:                                                  Accepted:

Advisor
Neil Sapienza

Dean of the College
James Lynn

Committee Member
Durand L. Pope

Dean of the Graduate School
George R. Newkome

Committee Member
Rod Bengston

Date

School Director
Neil Sapienza
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Cazand inaintea Ta, iti multumesc cu smerenie si ma rog nemasuratei si negraitei
Tale mislostiviri, ca si de acum inainte, sa-mi daruiesti faceri de bine, ca sa
sporesc in dragostea Ta si a aproapelui meu. Mantuieste-ma de tot raul si necazul.
Si ma invredniceste in toate zilele vietii mele totdeauna multumire sa-ti aduc si sa
graiesc si sa cant cele prea bune Tatalui si Fiului si Sfantului Duh, acum si
pururea si in vecii vecilor.
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CHAPTER I

INTRODUCTION

The dilemma between the Massachusetts Museum of Contemporary Art (Mass MoCA) and the artist Christoph Buchel, presents a unique case study in the administrative practices and policies of museums today. This study looks at how this case is affecting artist’s rights, and how it is affecting museum policy. In recent years museums have taken on a new role in presenting art to the public by becoming patrons and sponsors in the actual creation of new work.

Collaborations between artists and the museums that fund these new projects are becoming more common. The artistic and administrative complexity of these projects take the modern museum into uncharted policy waters concerning the ultimate ownership of the artwork created on a collaborative basis. Who ultimately controls the artwork, the museum or the artist? The study also examines the diverse aspects of this dilemma from a legal point of view and how the art world perceives who should control a collaborative work of art. The case also looks at what can go wrong in a collaborative work of art on such a mass scale, and how miscommunication can jeopardize an institution and an artist.

Mass MoCA, is one of America’s largest museums that frequently displays collaborative works of art in its exhibits. In the summer of 2006 the
museum embarked on a large collaborative project with the Swiss artist Christoph Buchel on a work entitled “Training Ground for Democracy.” The core of the study will be based on research in regard to this collaborative project between Mass MoCA and Christoph Buchel, with detailed examples of the intricate world of museum administration.
CHAPTER II
TRAINING GROUND FOR DEMOCRACY

Mass MoCA

The Massachusetts Museum of Contemporary Art (Mass MoCA), the largest contemporary art center in the country, is located in North Adams, Massachusetts, on a 13 acre campus and has 19 galleries for displaying contemporary art. The museum’s biggest gallery is located in what is simply known as Building 5. The space is roughly about the size of a football field.

The museum building evolved from humble beginnings as a mill during the colonial period from the late 1700s through the mid 1800s, to the Arnold Print Works Company, which occupied the space from 1860 to 1942. Mass MoCA’s website states that; “The lingering effects of the great Depression forced Arnold Print Works to close its Marshall Street operation in 1942.”¹ Later that year the Sprague Electric Company purchased the facility. During WWII the U.S. government commissioned the company “to design and manufacture crucial components of some of its most advanced high-tech weapons systems, including the atomic bomb.”² In 1985, Sprague was forced to close its doors, in part due to “competition from lower-priced components produced abroad”³ that eventually led to sales decline in the market.
During the mid ‘80s Thomas Krens, the former director of the Guggenheim Museum in New York, was looking for a large space to display contemporary art. Working with John Barrett, the mayor of North Adams, MA, and his colleague Joseph Thompson at the Williams College Museum of Art. Krens identified the old factory warehouse complex as a possible site for a new museum of contemporary art. Thompson took over plans for the future institution when Krens became the director of the Guggenheim Museum.

During the following years, Joe Thompson spearheaded a campaign to develop funding and support for the future museum, ultimately raising pledges of more then $8 million. Mass MoCA, opened to the public in 1999. The museum is renowned for hosting big art exhibits and commissioning artists. The museum also hosts a variety of musical performances as well as film screenings and other visual arts projects. The large size of the complex proves to be an enticing attraction for many contemporary artists who use that space to create enormous installations that would not be possible elsewhere. Over the passed decade the museum has held numerous exhibitions, opened up a new venue for the performing arts and continues to expand their educational facilities and outreach programs for the arts. The museums mission statement, posted on their website reads as follows: “Mass MoCA seeks to catalyze and support the creation of new art, expose our visitors to bold visual and performing art in all stages of production, and re-invigorate the life of a region in socioeconomic need.”

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The Artist

Christoph Buchel was born in Basel, Switzerland in 1966. He studied art at the University of Art and Design in Basel from 1986 to ‘89, and at the Cooper Union art school in New York from 1989 to 1990. He continued his education in Germany at the Kunstakademie Dusseldorf from 1992 to ‘97. Buchel participated in many group shows around Europe during the late ‘90s and held his first solo show in Geneva, Switzerland, at Galerie Skopia in 1998. His work has been displayed in numerous cities around the world from Basel to Zurich, Berlin, Geneva, New York, Los Angeles, London and Paris.

Buchel’s work consists of large site-specific installations. His work addresses diverse social, religious and political conditions by bridging the past to the present and making statements and links to contemporary issues. Geoff Edgers of The Boston Globe said that: “Buchel creates what curators describe as “hyper-realistic” installations, meaning that visitors are supposed to forget they’re at an exhibit.” In 2003, Buchel boarded up the storefront of a Los Angeles art gallery to make it appear that the building was shut down.

During this particular exhibit, Buchel made sharp political references in his installation in regard to the war in Iraq. He created a room in the back of a building that looked as if it was abandoned. Upon reaching the final point in the space, the viewer was surrounded by deactivated missiles. Bridget DuLong, the managing director of Los Angeles Contemporary Exhibitions said that the installation “was completely believable. This was in the period of time we were looking for weapons of mass destruction. Well, they were here on Hollywood
As an artist Buchel is also notorious in the art world for ridiculing the art establishment. For example, a few years ago in Salzburg, Germany Buchel retaliated against Heinz Schaden, the mayor of the city who would not officially approve burning copies of Hitler’s book *Mein Kampf* in a public location. The mayor did not feel it was proper to have public book burnings in his city since the Nazis were notorious for doing that previously. Buchel retaliated with a plan that would stop the city’s lucrative summer art festival.

At Buchel’s instigation, “some 3,778 citizens of Salzburg…signed a petition calling for a five-year moratorium on contemporary-art projects in the city's old sector.” The mayor “was not amused when the petition was formally submitted to the city for verification. If two thousand signatories are confirmed as registered voters, Salzburgers may soon be evaluating this issue at the polling booth.” This issue is still not resolved to date. In 2007, Buchel also used numerous copies of *Mein Kampf* that were translated into Arabic in one of his installations, in a gallery located in a Muslim neighborhood in London.

In 2002, the city of Frankfurt am Main was hosting the European Biennal of Contemporary Art where Buchel was awarded an exhibition spot to represent Switzerland. Instead of participating in the event, Buchel auctioned off his spot on eBay for $15,000. This caused quite a stir in the art world, it was unprecedented for an artist to auction off his spot in an exhibition.

Later in the same year Buchel teamed up with artist Gianni Motti to do an exhibit in Switzerland at the Helmhaus Zurich. The exhibit was unusual even for Buchel. Instead of exhibiting work, the two artists hid the $33,000 budget for the
exhibition somewhere in the galleries. The cash was kept by whomever found it.

“Visitors do not find themselves confronted with a work of art which has a use and exchange value,” the artists wrote, “but rather with the actual production costs, that is, the budget of the exhibition: a work of art that is not there.” They went on to say, “If nothing else the show should break attendance records.”

This particular show did have a large attendance rate, and someone did find the cash hidden in the gallery. These are some of the many examples of Christoph Buchel challenging institutions and governments. The art world apparently liked Christoph Buchel’s stunts, because he attracted attention and had high attendance ratings to a majority of his shows. Buchel is also known for his ambitious large scale installations. He encourages participation from the viewer to interact with the environment. Yet he shies away from media attention on a personal level. He absolutely hates the media, never gives interviews to the press and is rarely photographed. Currently, Christoph Buchel exhibits all over the world and enjoys the reputation as one of the most sought after contemporary artists today.

Training Ground

In the summer of 2006, Buchel was approached by the curator of the Massachusetts Museum of Contemporary Art (Mass MoCa), Nato Thompson (No relation to Joseph Thompson the Director of Mass MoCA) to consider an installation at the museum. Buchel agreed to create a work for the museum in Building 5.
The partnership between Christoph Buchel and the Massachusetts Museum of Contemporary Art (Mass MoCA) seemed like a great match. Christoph Buchel is an artist of grand vision who displays ambitious installations throughout Europe and the United States. Mass MoCA, is noted of its ability to house monumental works. The title of the proposed project would be called “Training Ground for Democracy”. The Installation was “inspired by existing mock up villages and virtual reality training software that the U.S. army has designed to train its members to tackle real life battle situations in the war on terror and the Iraq war.”

The simulated village proposed for Building 5 was supposed to give the visiting public a surreal opportunity to explore the different dimensions of Training Ground for Democracy in a participatory sense. The village was supposed to have major architectural elements that provided the viewer the opportunity to walk through the installation, to climb or crawl through certain elements and to dress up as a firefighter, a police officer or even a terrorist. According to Buchel, the exhibit was:

To adopt the role-play of U.S. military training for its visitors, who would be given the opportunity to “virtually” change their own various identities in relation to the collective project called “democracy”: training to be an immigrant, training to vote, protest, and revolt, training to loot, training iconoclasm, training to join a political rally, training to be the objects of propaganda, training to be interrogated and detained and to be tried or to judge, training to reconstruct a disaster, training to be in conditions of suspended law, and training various other social and political behavior. All of theses concepts were to have been made visible in the final installed work.
Elements and Objects Needed

By August 2006, plans for Training Ground were in motion and Buchel, accompanied by Nina Magnusdottir, visited Mass MoCA as an artist in residence. During his residency at Mass MoCA, Buchel and Magnusdottir, “prepared a schematic model (with the help of an architectural cardboard model of Building 5 provided by Mass MoCA that was used for planning previous exhibits of other artists in this space) of the proposed installation “Training Ground for Democracy”.”

The installation planned by Buchel had an array of structural elements that included a playground, a school, a small church, museum, jail, a bomb carousel, a statue, oil tankers and sea containers, cinderblock walls, a disaster zone, a two-story home, a mobile home, ambulances, an office building, carnival rides, a replica of the spider hole where Saddam Hussein was found in was to be constructed, deactivated missiles, full police riot gear, terrorist outfits, trash, a passenger jet fuselage and a movie theater. These elements, that were to comprise the totality of the installation, were to be acquired by the museum.

During the initial planning stages of the exhibit the one “essential” element needed for the show was left out. The contract. An agreement to the purpose, scope, budget, timeline and objects needed for the installation should have been written down by the museum and formalized in a contract. In this case the museum neglected to have a formal written contract with the artist, and nothing was ever signed.
In August, 2006 Mass MoCA approved Buchel’s installation plans for “Training Ground for Democracy,” as presented in the model, and agreed to fund, to provide logistical support for, to procure the necessary objects, and to exhibit the completed installation as proposed.”

Early on, Mass MoCA appeared to be very optimistic and with high hopes for the project. The Boston Globe stated that, “Nato Thompson, the head curator for the project practically begged the museum director Joe Thompson to “Please give this the green light, I have never programmed Building 5 and I am sure I can nail this one.”

The museum’s director saw the potential of the show and spoke to the media about it proudly. “He would call the work the “ ‘Guernica’ of our times,” referring to Picasso’s mural depicting the senseless brutality of war.” During the months of August and September, 2006, Buchel remained in North Adams to work on the project with the help of Richard Criddle, Mass MoCA’s chief fabricator and the fabrication crew. According to a museum timeline of the project it was estimated that the project should take about three or four months to complete and set the opening date of the exhibit for December 16, 2006.

On September, 31st Buchel returned to Europe to tie up other engagements and was set to return to Mass MoCA on October 29th. During Buchel’s trip to Europe, Mass MoCA was supposed to find and acquire all the necessary objects needed for assembling the installation upon Buchel’s arrival with his three assistants from Switzerland. Before leaving to Europe, Buchel left a list of things needed for the installation and entrusted the museum to find all the objects.
Early on in the project Joe Thompson was enthusiastic about finding the necessary objects for the project as he stated in an e-mail to his staff:

Here is my mega thought. To make this project great, and do-able, we need to be very, very clever about finding and bringing into the gallery a high volume of usable props. The more ready-made “junk” we can locate, and haul in, the less pressure on new construction (which I know we will not altogether avoid). After we get a handle on the kinds of junk he wants, we’ll divide up. I’ll take on airplanes. Someone else will take on RV’s. Some one will do mobile homes (or sections of mobile homes). Someone else will do the furnishings. We’ll each get a $734.21 budget for our respective categories, and will have a contest to see who can sniff out and retrieve the most interesting stuff, for the least amount of money, by a specific date.  

According to Joe Thompson the project was a “contest” to see who could find the cheapest and most interesting junk to stack up to the ceiling in Building 5 for Buchel to make an installation out of it. It sounded like a simple plan but soon logistical problems emerged from the project’s conception. The museum could not get all the “junk” into Building 5 after they started collecting it. The first problem was getting an oil tanker and other large objects like the mobile home and the two-story house into the building. The museum decided to commit $45,000 to install a 12-by-24-foot door on Building 5. The artist argued with the museum that since the door would remain in the building after Training Ground was over, they should not count the $45,000 towards the budget of the project. The museum disagreed.

Further disagreements erupted when it came to the purchase of the mobile home. The first one the museum was going to purchase was too big to fit in the gallery. The second one, according to Buchel, was not big enough. Ultimately, the
museum purchased a mobile home, but Buchel was not happy with it, saying the mobile home purchased by Mass MoCA compromised his artistic vision.

When the time came to purchase a house to install in the gallery, the confrontation escalated between Buchel and the museum. The museum decided to purchase a house with a lot that the museum could use for other purposes. Buchel complained about the outrageous price of the house, saying that it would cut into his budget too much. In an e-mail to Joe Thompson, Buchel stated that:

The house turns out to be $98,000 when finished without the installations inside (and without approx $12,000 for sprinklers for the house). How can you not communicate this clearly before? (By the way was the lot you bought included in the price where the house was standing?) I remind you that we could have had a house for free even with all the stuff inside. I proposed to dismantle it with my crew but you, as you and your crew did always, relied just on your experts, and never the artist. We more than once proved, that your crews expertise’s in dismantling things were wrong (cinema, big platform ladder etc.) It also would have been possible to organize other houses as I told Nato several times. There are tons of empty houses around the neighborhood of North Adams.\(^{17}\)

On a tour of the ongoing work in Building 5, the mayor of North Adams, John Barrett III commented that, “It’s art at its craziest, imagine moving a house into a gallery.”\(^{17}\) The house had to be dismantled into three pieces to get it inside of Building 5 and was then reassembled on site. This was a logistical nightmare for the MoCA staff. Although worn down by the work and the demands of the installation, they were able to reassemble the house inside the gallery according to Buchel’s requirements.

Randy Kennedy a reporter for the *New York Times*, commented on the exhibit after seeing it in its “unfinished state”. That “you enter through a place
that looks like the very last picture show, and old movie theater with soda-stained carpet and a busted popcorn machine. Sleeping bags and clothes are scattered around, as if the theater had served as a shelter from some unnamed danger outside its doors. Beyond those doors sits a tiny mud-brick house, an eerie replica of the one where Saddam Hussein was living in when he was captured in his spider hole. And past that, nearly filling a warehouse the size of a football filed, loom dozens more unsettling sights: a wrecked police car, a carnival ride rigged with bomb casings, a dilapidated two-story house, a rusted oil tanker, an interrogation chamber. If it seems that some sort of disaster has taken place here, it has.”18

As the installation of objects in the gallery progressed, fire codes and handicap issues started to emerge. Joe Thompson was concerned about having a clear pathway for people to be able to exit the building in case of an emergency as well as having the required handicap access mandated by law. Thompson repeatedly e-mailed Buchel to make some sort of handicap access route through the gallery and provide a fire escape plan. “As I know you know, if handicap accessibility and an ample, clearly marked public safety egress pathway are not provided throughout the ground plane of the show, it simply cannot be open to the public.”19 For the better part of the installation Buchel ignored Thompson’s request. Even as late as January, 2007 Buchel still did not provide a clear handicap access route and Thomson complained in an e-mail to Buchel for the final time:
Before anything else, we need to solve the handicap accessibility issue, which is not trivial. Maintaining the ‘street’ for wheelchairs (which provides other public safety and utility benefits) thru the ground plan is a requirement… as we have discussed and planned from the outset. Your current configuration and the alternative doors take this into account and we just can’t shut off the entire gallery from handicap access.20

Even simple issues in this case were very hard to bring to consensus. Buchel’s stubbornness of handicap accessibility is somewhat puzzling, especially in his response to Thompson. “This installation is unfortunately not conceived nor designed for handicapped persons, they will just be able to access and see 20% of the show, and it is not and will not be my intention to show 20% of the project to anyone.”21 Buchel knew that Mass MoCA could not open the exhibit without handicap access routes and fire escape plans in place. Instead of trying to solve the issue, Christoph inflamed the argument with Thompson by saying, “Nor did I intend to show a work in progress to the governor of Massachusetts, as I had to read in a newspaper. The installation is not a training ground for democrats and to be politically used for the needs of democrats or republicans, especially when the work tries also to address these kinds of issues. As said in my last letter, there is no permission from my side to show the work in progress.”22 The handicapped accessibility issue was never resolved.

During his trip to Europe, Buchel saw several articles in newspapers about “Training Ground for Democracy.” He was increasingly adamant that the exhibit not be viewed until it was completed. This position is typical of Buchel, who never shows his work to the public or press until it is completed. In this instance,
Mass MoCA did not respect Buchel’s wishes from the very outset of the installation and it infuriated him.

He complained of this to Nato Thompson on a regular basis, saying that; “If you do your press work you have to do it after the piece is finished. I tell you, I will not accept some stupid journalist walking around in some unfinished installation. I can’t stand journalists and will not deal with them and will not allow them to see the show before the installation is finished. So they can come to the opening, like anyone else or later but not before. And please don’t publish what is going to happen in the installation in detail.”

Nonetheless, on numerous occasions Mass MoCA gave tours to select people. For example, the town mayor took two tours of the unfinished exhibit, as did the governor, the press and many others who wanted to “take a peak” at the installation. In an interview, with Geoff Edgers, the reporter from the Boston Globe that broke the story on Mass MoCA, said that he asked to see the installation and Mass MoCA showed it to him in the early spring of 2007, before it was covered up with tarps. When Edgers was asked about his initial reaction to Training Ground he said, “It was a very dramatic space, a huge space filled with stuff. It’s pretty cool, something you would tell your friends about, I was very intrigued by it.”

The question arises: should a museum show the unfinished work of a living artist against his wishes? This question would later be debated in court between the museum and the artist. In another instance, Mass MoCA tried to display Buchel’s notebooks and image collection for Training Ground. Buchel
didn’t want to show them to the public because he felt they would give too much away about the installation and the ideas for the exhibit. Joe Thompson, on the other hand, continued to push the subject, further aggravating Buchel. Thompson said, “Your notebooks and image collection really need to be shown. While I understand your reluctance to allow visitors to escape “behind the curtain” the feeling of those notebooks were profoundly informational, augmenting, and strangely beautiful. Believe me, they don’t give too much away…Nato, by the way, thinks I’m pushing too hard on this one, but every instinct in my brain and body is telling me this is really important, and will make your presentation stronger.”

The fact that these notebooks were “profoundly informational,” as Thompson said, is exactly the reason Buchel did not want to show them. Clearly, Thompson had one point of view and Buchel another. They clashed from the outset of the project. When asked about his thoughts on Buchel and Thompson, Geoff Edgers, said they were “arguing from the start, it was clear that they didn’t have good relations.”

The Budget

A clear and precise budget was never set for Training Ground by Mass MoCA and Buchel when they agreed to do the installation. In the initial stages of the project Buchel inquired several times as to what the budget was for the project but the answers were always vague. “I need numbers,” Buchel wrote via e-mail. Thompson replied that he needed more details about Buchel’s plans before providing a firm numbers, adding, “Don’t be angry with me, I’m on your team.”
This failure to solidify expectations would prove to be the undoing of the show, and to the eventual postponement of the opening date of December 16, 2006. Joe Thompson estimated that the project would cost roughly $175,000 which he felt was “a fair budget for these massive Building 5 exhibitions.” Thompson offered to foot $75,000 of that bill, with Houser & Wirth (Buchel’s representative gallery in New York), picking up $50,000. The museum and gallery would then work together to raise an additional $50,000. Thompson made a request to Buchel’s New York Gallery: Don’t tell Buchel about the money. I’ve not yet met an artist who can’t spend multiples of the original budget, so I like to control the process very tightly.”

Eventually, Thompson addressed the subject of money to Buchel. He told the artist in an e-mail that “‘Budget’ is a funny word to use, since so far we don’t have a single donor. We’re way out on a limb, and it can’t get more expensive.”

By the time Buchel learned of Thompson’s original budget of $175,000, he was terribly upset because MoCA had already spent $100,000 on the house and $45,000 on the door that was installed on the building. It was at this time that issues of who should pay for the door came up, Buchel claimed that the door should not be included in the original budget because it represented a capital improvement to Building 5.

Buchel also claimed to have found a cheaper house and that even a free house had been offered to him. Buchel then, lashed out and criticized Thompson in an e-mail regarding how the process was going. “Your institution proved repeatedly not to be capable – neither logistically, schedule – nor budget-wise – to
manage my project, nor did you understand what my work is about, and how it has to be treated."

As the installation progressed and MoCA kept spending more money on the exhibit, the figures went well over $300,000 and the deadline for opening the exhibit was approaching. Major parts of the installation were still not finished. The cinema that was rebuilt inside Building 5 still needed massive amounts of work. The concrete wall that was to be built in the gallery was still in progress. Despite the costs, Buchel still demanded more money for the project. In a mocking email to Buchel, Thompson argued his point in regard to where all the money had gone:

I would point out that we have already expended some $340,000 to date on the exhibition. For the sake of this discussion, however, let’s deduct from that figure the full $89,000, in costs for the house (Thompson was no longer counting the cost of the lot that came with the house) acquisition, relocation, rigging and reconstruction (pretending to ourselves, for the moment, as if a two-story house could be magically teleported whole into our second floor gallery, at zero cost in terms of time, money and labor). Let’s also hypothetically exercise $45,000 from the project budget in expenses associated with the massive new gallery overhead door opening (pretending it wasn’t a physical necessity to accommodate the installation). Let’s go even further, deducting $10,000 in materials such as fire doors or metal parts which you have said were unnecessary purchases. Finally, let’s credit the show budget for labor which you argue was redundant or unnecessary, and let’s adopt the highest and factor for that dismal assessment, assuming that 8 full person weeks were whiled away, at a cost of $6,000. Those hypothetical pro forma adjustments still leave us at $190,000 expended to date (before inclusion of any our MASS MoCA’s own internal staff and overhead), which, together with the additional $100,000 I have just committed by this letter, take us to $290,000 in total MASS MoCA direct expenditures for what was planned and budgeted to be a $160,000 undertaking… and that’s of course before the house, the doors, the metalwork, and the blood, sweat and tears which – whether you acknowledge them or not –
remain actual economic costs born by MASS MoCA and our founders.  

In spite of the bitter arguments between Buchel and Thompson, work was well under way for the installation. The Mass MoCA crew along with Buchel’s three assistants worked around the clock to make the deadline for the opening in mid December. On October 29, Buchel returned from Europe to North Adams to complete the installation as agreed. Another dispute took place about the pay of his three assistants, Geoff Edgers, published the debacle on his website the Exhibitionsit, saying that:

The first and most important demand was that Christoph would not move forward without three assistants from Switzerland, who he said were crucial to the realization of the installation. These were assistants who had worked on several of his other labor intensive installations and had the most technical and logistical knowledge of the work. They also understood Buchel’s vision. Originally, the museum offered a meager salary to the assistants - $1,000 dollars for one assistant for seven weeks of work, the two others were not to be paid. When the museum finally agreed to pay proper salaries, a request was made that the NY gallery front the money. The artist was never notified of this action and was only made aware of this when a “confidential budget” was finally released in early January to his European gallerist, after the show had been postponed. The museum had no intention of paying the salaries of these assistants who ended up working 45 days straight – at least 10 hours a day.”

During the time Buchel was in North Adams he only requested that they should be paid, he didn’t know at the time that the museum expected Buchel’s gallery to pay for his assistants instead. Complicating matters further, there were major delays on the project’s development. There were serious concerns about opening the exhibit on time. Thompson wanted to wrap things up, and quickly.
This installation was costing much more than anticipated and he felt that Buchel’s
demands were getting more and more outrageous. In an interview with the *Boston
Globe*, Thompson talked about Buchel’s demands and said; “Did we get the 727
fuselage, blown up, burned, and suspended in the gallery as he had asked? Well,
that one we couldn’t come up with. But we looked into it.”

In an e-mail to Richard Criddle, Thompson’s chef installer, he made an
interesting remark about Buchel; “The guy is complex: he has a rock solid
integrity and a clear vision. He took extreme, mortal, offense at my efforts to
‘move the project along’ by making a few decisions in his stead… At one point, I
was convinced he was walking off the project.”

By the end of November, it became clear that it would not be possible to
open the show in time. In exasperation, Thompson wrote to MoCA’s marketing
and public relations director, Katherine Myers that; “If we can’t get 80,000 to
90,000 people through the doors, we should hang ourselves by our thumbs.”
Buchel finally broke the all too evident news to Thompson and Nato that “under
no circumstances we can open the show in time…” (The e-mail aggressively
continues with cursing and profanities).

With this realization, Buchel became more combative towards Thompson
and critical of Mass MoCA, telling Thompson in an e-mail: “As you remember
we sat together in your conference room when I said that I see, that your museum
is not ready for such an installation, you answered that you have done far more
difficult installations like a complicated Rauschemberg show etc. This showed me
clearly how you underestimated this project logistically and with regard to its
The question arises; if Buchel did not have confidence that Mass MoCA could accomplish his installation before they started work on it, why did he agree to do it in the first place?

Thompson eventually realized that he could not win with Buchel and agreed to delay the exhibit. The official Mass MoCA statement said: “Due to logistical complexities encountered by the museum in preparing galleries for Christoph Buchel’s vast installation, Training Ground for Democracy, the exhibition’s official opening date – tentatively set for December 16th – will be rescheduled for early 2007.”

Buchel and his three assistants remained at Mass MoCA through the planned opening date. They worked on the installation ten to twelve hours a day, even weekends to finish Training Ground for the December opening, but it was just not possible to maintain the set schedule. After the tentative opening date, on December 17, Buchel left for the holidays to Europe. “Buchel intended to return on January 8, 2007 to complete “Training Ground for Democracy” for a planned March 3, 2007 opening.” That was the last time Mass MoCA saw Christoph Buchel.
CHAPTER III

DISAGREEMENTS

Off to Europe

Before leaving, Buchel left a list of instructions to Mass MoCAS production manager Dante Birch, so that work could be continued on the installation during the holidays before Christoph’s return. The instructions also detailed parts of the project that had to wait for Christoph’s return so they could be worked on with his supervision. Despite the postponement of the opening things appeared to be going reasonably well with work on the installation during the holidays. On the other hand, after Buchel arrived in Europe the tone of his communication with Mass MoCA changed drastically and he got very defensive about what transpired in Massachusetts. Venting his frustration, Buchel sent Joe Thompson and Nato Thompson an e-mail that describes the artists feelings towards the institution:

I don’t know if this is a really great opportunity when you get an invitation to do a show, where you have to make constantly tons of compromises, where you have to fight constantly against stubbornness as well against the institution and work with people that think they know my art better than I do as well as try to sabotage the project, where you are being put in the position of playing the (expletive) and not at all the artist, and where you have to cancel a huge solo show in Paris because of all the (expletive) ups and delays and on top of it where you want me now to pay a huge amount for the show via my galleries. I had to loose so many
nerves with you guys and the more I have a distance from the incredible things that happened the more I get upset and I can’t believe that it still continues. I really don’t need more (expletive) spilled on me. I will not come to continue the installation of the show until all financial problems are solved, regarding ALL elements of the show and until my crew is being sure that they getting paid as well I will not produce any art to cover up any misspending of money. We agreed on a opening date BEFORE you came up with very serious additional financial issues. 40

Happy Holidays

Christoph

By this time Mass MoCA was simply out of resources for this show, having spent $350,000. Buchel on the other hand did not want to hear this and demanded that MoCA raise the money if they wanted him to come back to complete the project. Thompson was seriously concerned that Buchel might not come back to MoCA. He became very diplomatic in all his correspondence with Buchel, trying not to offend the artist anymore.

Thompson also sent regular updates on all the work that was being done for the installation to Buchel for his approval and guidance. Another issue popped up when MoCA started work on the cinder block wall in the gallery. Buchel claimed that it was not according to his plans “now” and that the way MoCA was building it was according to old blueprints of the installation. The fact of the matter is that those were the only plans for the installation to begin with, but Buchel would not budge on his view. Thompson tried to divert the argument by saying how great the cinema is starting to look and how amazing the house appears in the gallery. As work progressed the money issue continued to arise and
Buchel, claiming that Mass MoCA never had a set budget for the show, urged the museum to keep spending.

**Communication Breakdown**

Thompson urged Buchel to reschedule his visit to Mass MoCA “to later in January – to give us more time to work out the budget and define the remaining scope. We’re making progress, and you and I should talk about it.” Buchel responded to Thompson in an e-mail regarding to the “scope” of the show:

> I am not negotiating the clear scope of the show in the middle of a total ruined and (expletive) up production nor do I accept working in insecurity and rescheduling all my future projects, after so many unbelievable things happened. For example that I had to cancel, as I see now for no (expletive) reason, a major solo show at Palais de Tokyo in Paris that would have started on the first of January. I will not let my crew and me step into another acid bath at mass moca not knowing what is going to happen. What is too much is too much, I am definitely done. I will not be available in the next weeks since I will take my time off until I am recovered from all this crap. For any future communications please contact my galleries, as you do so anyway.

Christoph

From this moment on, all correspondence between Mass MoCA and Buchel went through Buchel’s galleries as he had requested. As the issue intensified, Thompson unsuccessfully tried to lure Buchel back to Mass MoCA. On January 16, 2007, Buchel sent Thompson an e-mail through Michele Maccarone, (Buchel’s Dealer in N.Y.) with a list of demands that Mass MoCA had to fulfill in order for him to come back and finish the show. The interesting aspect of Buchel’s communication was its opening line, in which he claimed that
he would “return to accomplish the remaining 60% of my show.” According to Buchel only 40% of the show was complete to date. “Depends on how you measure it. (Said Thompson) By total person hours, it’s probably closer to 85% complete. By weight, closer to 97% complete. By artist hours, I’ll accept your 40% assessment. By emotional toil, let’s hope to hell it’s 99% complete.”

Thompson intended to send Buchel a full response to all of his demands. Cornelia Providoli, from Maccarone Inc. in New York intercepted the e-mail and urged Thompson; “If you send that letter he will cancel on the spot 100%. Trust me.” Thompson sent it anyway, answering Buchel’s demands. Below is a partial outline of Buchel’s demands to Mass MoCA. Thompson’s response to each demand is also included:

CB: I would have to hire another crew (besides my crew), which replaces partially yours and that takes over the project in order to resume it.

JT: Agreed, per my 22 Jan 07 letter.

CB: You have to organize the money needed and raise sufficient funds, before any of us returns.

JT: This is done, with Mass MoCA having raised an additional $100K, and your gallery having agreed to provide up to $100K, and Michele having agreed to cover the Round I assistants.

CB: The raised money has to cover the costs for ALL elements and ALL structural elements to be finished and to be done and bought, which are clearly defined and which were talked about, as well as salaries, flights, per diem and
housing for the 1st and 2nd round for my assistants and the replacement crew and equipment to be hired.

JT: Michelle provided a preliminary completion budget estimate of some $200K, which included the aircraft fuselage, the assistant costs, and our internal costs. I’m sure that’s an adequate budget, and it could be well high, depending on how you control costs going forward. I know you feel you can manage the project more efficiently than Mass MoCA, so perhaps you’ll do better on cost control, and it can be done for $160K all in. You’ve still got a lot of control over that.

CB: I got involved in reading the “confidential” budget because he wanted to check back with me on that and I am extremely upset about the figures and the mismanagement and miscommunication going with it. As a consequence I want to have full control of the project and the future budget. The money for the second round should be put in a special bank account in my name specific to this project.

JT: We’ll find a way to give you the fiscal control you need. I don’t know exactly the mechanics for that… if your galleries are comfortable simply writing you a blank check, that might work, or we could devise a simple requisition system in which you are the sole authorizing authority for expenditure, and we would simply write the checks at your request… that’s a detail we can work out. We cannot agree to give you spending authority that could result in liabilities for the museum in excess of completion funds in hand, but short of that, we’ll find a way to make it work to your satisfaction.

CB: There is NO negotiation about the scope of the project.
JT: So long as the show has approximately the same configuration and content as we’ve discussed and planned to date that shouldn’t be a problem: the budget, physical attributes of the space (volume, floor loading, building code and utility requirements, etc) will of course play a role. But I trust you know and understand our parameters. I won’t screw around with your art, but you in turn have to respect the parameters that we’ve already agreed to.

CB: I will not give you any permission to show an unfinished project nor will I let you show any work in progress, as you proposed already earlier.

JT: You already agreed to the Feb 10 Berkshire Conference, but if, for example, that were to interfere or disrupt your work we would of course work with you to avoid that. Showing works in progress is something we always do at Mass MoCA – it’s part of our institutional identity… but we will work with you during your residency here so that we will not impinge on your activities in any way, including keeping public (and press) out completely during your working residency if, in the end, that’s what you wish.

CB: I will not accept without consequences any additional sabotage acts, as done to artworks of mine and as well done to the installation in progress.

JT: There have been no “acts of sabotage”. That’s just a bit over the top, Christoph. Yes, there were some minor production mistakes, some of our making and some of your making or your crew. I recall a big blow up over the electrical conduit on the Saddam house… which was not sabotage, as you first felt, but an act to correct and illegal and dangerous bit of wiring. I wish the electrical contractor had explained what he was going to do before he did it, and I
apologized on his behalf for that (and he too, expressed apologies, when he realized your crew thought he was attacking your art, when in fact he was fixing an installation that was not acceptable, and for which he would have been accountable as a licensed electrician). When Richard installed the stairs in a way you disliked, we fixed them. When you didn’t like the sloped roof in the projection booth exit stairway, we fixed it. When the acoustic tiles were accidentally installed in the wrong direction, we fixed them. When you didn’t like the way the door frames were screwed into the walls, we fixed it. These are not purposeful acts of sabotage, but small screw ups by our respective crews which got mitigated.

CB: The opening date will not be earlier than two months after we arrive.

JT: Your gallery reps and assistants have mentioned to me that they believe the work could be completed in 3 or perhaps 4 weeks… but since you will control the final scope and work method, that’s for you to decide, not us.46

The incredible array of demands and the acceptance of a vast majority of these demands by Joe Thompson, completely undermines typical administrative policies of museums. Thompson was willing to make an unprecedented sacrifice unknown in museum procedures to date. He was prepared to hand over almost complete control of Building 5 and the Training Ground installation to Buchel, to lure him back to finish the installation.

Christoph Buchel placed himself in the position to completely turn the tables on Mass MoCA, and their administrative policies. He was now holding the upper ground and was in no way prepared to lose his position. In an interview
with the press, Jock Reynolds, the director of Yale University Art Gallery said:
“Regardless of the issues of right and wrong, I’ve never seen an artist put this
kind of abusive pall over a museum.” Unfortunately, this document is the closest
thing to a contract and written agreement between Mass MoCA and Buchel. It is
also the only cohesive document that specifies an exact consensus in regards to
the installation procedures, budget and timeline of Training Ground for
Democracy. It most certainly came far too late to have a positive impact on the
actual installation.

Dante Birch wrote to Thompson via e-mail: “It feels like CB is holding us
ransom.” By now the MoCA, staff had about enough with the way things were
going. Even Richard Criddle, MoCA’s chief installer for a decade, “was fed up
with Buchel and Building 5. He told co-workers he was looking for another
job.”

Made at Mass MoCA

By mid January, 2007 Buchel no longer gave any instructions to the
complete Training Ground to Mass Moca; neither did he approve of the work that
was still being done to his exhibit. MoCA continued work on Training Ground
into May 2007. The museum was still making significant efforts to appease
Buchel, hoping to reach a resolution to bring him back to finish the installation.
Buchel still demanded that the necessary funds be appropriated towards the
installation and insisted that all conditions in his list of demands must be fulfilled.
“I will not negotiate further this matter, as previously mentioned, because almost
any of the main conditions are simply not fulfilled. Further on, I have to mention, and this is absolute priority, that my crew is still waiting for their payment and they are all broke.” The interesting aspect is that Mass MoCA still did not pay Buchel’s crew for their months of labor on the project even after all the deliberations to do so. In what are typically normal procedures and policies to pay workers for their time, Mass MoCA failed to resolve such a simple issue that would have saved both parties much aggravation. As a last effort to raise the finances necessary to complete the exhibit, Thompson gives Buchel and elaborate financial explanation of how it can be possible to finish the show:

Let me suggest how we can meet the challenge of the completion budget. I will do everything in my power to beg, borrow or steal $100,000 in “completion funds”. Given that we’ve already raised (and given what I still must raise to cover the existing deficit), I simply cannot promise more than that, and it would not be honest if I pretended that I could. Even $100,000 will be difficult on top of what we’ve raised so far. Our supporters are tapped out, and the show’s content has made it exceedingly difficult, if not impossible, to raise money for from conventional corporate and foundation sources. Though I cannot say, as of today, that I have the $100,000 in “completion funds” in sight, I think it’s a feasible figure, in the context of the plan that you have described. If we agree on a plan, I believe I would be in a position to know within a week as to whether I can indeed succeed in securing that funding. That leaves us approximately $120,000 short (assuming our preliminary budget framework, which Michele pointed out could be high or low by some amount, depending on your assessment of the project, and your final decisions about the remaining elements). Mark volunteered to me that H&W stood ready to provide an additional $100,000 in exhibition funding. Michele has already committed $25,000 in Round I assistant support, which is carried in the $120,000, meaning that with those two commitments, we could cover the completion budget. However, you have made it clear that you do not want your galleries to participate in the exhibition sponsorship. With respect to that, I have a suggestion which I believe may address your underlying concerns: When works fabricated at Mass MoCA move on (for sale, or subsequent exhibition), the museum gets reimbursed for our direct materials
and fabrication costs (but not our internal and overhead costs). Let me suggest that we treat the H&W and Maccarone support as advance payments against those future cost reimbursements, which changes the nature of the support, making it an asset acquisition, and not a sponsorship or subsidy. God knows, there will be a lot of great art here with just a few more weeks of hard work. If you can find a way to work through that, and I can find our new money, I know we can finish this show using the methods you propose.51

Undoubtedly, Buchel did not accept the proposal mentioned above. Thompson insisted that the project must be finished as soon as possible because it was holding up the museum in a stale mate. He offered to meet with Buchel in Basel, Switzerland. “Or let’s meet halfway in Iceland. How about it?”52 No response came from Buchel about meeting with Thompson to discuss the project. The museum director wrote another e-mail to Buchel urging him to come and finish the project or we will have to move on to plan B. “With your help we can still make a great project. Without it, we’ll have to come up with some alternative plan B, which obviously won’t be a Christoph Buchel work of art, and which will require a ton of extra work on our part, and that would pain us all to no end, but we simply can’t continue this holding pattern… and I know you don’t want that either. Since time is of the essence, if we can’t resolve a completion plan in the next few days, I think we should both move on.”53 Buchel did not take Thompson seriously and only replied back in a mocking e-mail:

Joe,

I think you should definitely apply as a volunteer at the white house. That’s the best training ground for politicians, you would be very skilled. They also have a great art collection, if you have some leisure time, part of that collection is in the oval office, by the way (as you can see also on one of my videos), it’s also far better than touring with a governor through another training ground for democrats.54
Thompson consulted with his staff about how to proceed with the show given the dilemma the museum found itself in with the artist. Susan Cross, a curator at Mass MoCA, (she previously worked for ten years at the Guggenheim) advised Thompson about how to approach the subject of opening up “Training Ground” without Buchel’s consent and what possible ramifications this could have on the institution. Below I will outline her major concerns (which are imperative to this case study) she sent to Joe Thompson in an e-mail:

We know Christoph is crazy, but I still think this is a delicate PR issue. I’m not worried about the general public at all – I’m worried about our peers and colleagues and the artists and galleries and press who might work with us in the future.

I don’t want in any way to look like we are insensitive to the rights of artists or that we are co-opting an artist’s artwork or intellectual property. WE DON’T DO THIS – but I’m just worried how we MIGHT LOOK. (though Mass MoCA makes so much work here, that I think we tend to forget that whether we’re doing the welding or not, there is an “author” – an artist for whom we shouldn’t make decisions. We need to be careful about what we say about this). The single author/artist idea is such an outdated notion, really. Art-making is much more collaborative these days – but it is still very muddy. This is one of the points we can address is we are going to turn the unfinished exhibition into a didactic “teach the conflict” kind of thing.

I don’t think we should even use Christoph’s name at all if we open the show – we might just say “an artist from Switzerland” – if we use his name, attach it in some way to the work, I think that is where we might get in trouble.

Do we as a collaborator have any rights of ownership since we built it, paid for it. This is really tough. Perhaps the answer is both yes and no. Though if we don’t call it a Buchel, perhaps it is different.

At what point, if at all, does an artist lose his right to owning the idea as his/her “intellectual property”? If the Buchel exhibition is not finished and thus not art, then if we show it to people as is – is it Buchel’s intellectual property – is the unfinished work still “art”
or is it just “stuff” – raw materials… I think it is still art and still belongs to Buchel. (Think about Huang Yong Ping and the Bat Project – when the Chinese govt. dismantled his airplane and put it in the park – even taken apart, wasn’t it still Huang Yong Ping’s?)

The relationship between artist and institution. The institution usually has so much more power than the artist. But here the tables seem turned.

This whole thing makes my head hurt… I’m still thinking…

After much deliberation of how to open the show, or if the museum could open the show, the decision was made to cancel the exhibit. Richard Criddle gave a “charming” answer about what to do with the show to Joe Thompson, Nato Thompson and Dante Birch:

The hell with the maybe this maybe that….. CB is so fond of Saddam as a historical figure and he couldn’t deal with deadlines either! (Remember Kuwait?) The time for further negotiation is over!..... He has missed his opportunity to return, he has been his own worst enemy, he has screwed-up a once in a lifetime chance to work with a world class museum on such a major scale. I am sure his career will suffer as a result. Nato said publicly that this was an exhibition to promote an artist’s career! HA! I am sure we have all learned some lessons too! I know I have! Lets do what we can, be aware of the dividing lines, and open the damn thing!

On May 22, Mass MoCA posted an excerpt on the museum’s website stating the cancellation of Training Ground for Democracy. The “twist” is, not only did Mass MoCA cancel Buchel’s exhibit, it simultaneously announced the replacement of Training Ground with a new exhibition titled “Made at MASS MoCA”, with the opening date of May 26, 2007. At the same time Mass MoCA filed for a declaratory ruling in the United States District Court in Springfield, MA. The ruling was sought to confirm that, “if the court allows the view-
restricting measures (the tarps) to be removed, the materials assembled for
*Training Ground for Democracy* would become available for viewing.”

The concerns raised by Susan Cross reflect critical points in regard to the possible showing of an exhibit of an artists work without his consent. Logistically, this proved to be a very delicate PR issue, which in the end backfired on the museum. Opening Buchel’s exhibit covered up with yellow tarps, under the pretense of showing another exhibit in Building 5, was clearly a dubious decision. Though the museum went far to demonstrate they were not “co-opting” Buchel’s intellectual property by covering the major elements of the installation.

Nonetheless, the press and the art world immediately objected to opening the exhibit. For instance, *New York Times* reporter Roberta Smith criticized Mass MoCA in an article saying that; “By opening the show without his assent, the museum has broken faith with the artist, the public and art itself.”

The fact that the museum did not use Christoph’s name anywhere in the “*Made at Mass MoCA*” exhibit, did little to change anyone’s perception about the show or the association of Buchel with the institution. Because of the intense media coverage of the “debacle” as it came to be called, Mass MoCA found itself in a deeper hole than it had been in, before it decided to proceed with *Made at Mass MoCA*.

The *Boston Globe* art critic Ken Johnson said in an article that; “What the Massachuttes Museum of Contemporary Art has done in response to the Christoph Buchel mess is sad, dumb, and shameful.” In an interview, Geoff Edgers from the *Boston Globe*, he said, that when he interviewed Joe Thompson;
“He didn’t want us to write an article, he thought it might hurt the thing. But it’s our choice to write not his.” The scrutiny that came down on the institution is unparalleled in high profile media cases related to museums in America. Mass MoCA came under fire from every major newspaper in the country and abroad. It was the buzz of the art world, everyone wanted to find out who would win the battle in court - the museum or the artist?

The explanation Mass MoCA made to the public is interesting, in regard to opening *Made at Mass MoCA*: “We believe that the raw materials and partially completed scenarios speak for themselves, providing important insight into the intricacies of creating art in our day and time.” Arguably, how the stuff was made and an in depth look at the plans for Training Ground was exactly what Buchel originally did not want to show the public. “When you are committed to experimenting on a large scale, the results can be unexpected. Not everything works,” added Thompson.

The intention of *Made at Mass MoCA* was to show the public how the museum was previously able to exhibit large complicated shows with other artists such as, Ann Hamilton, Matthew Ritchie, Robert Wilson and Cai Guo-Qiang to name a few. The museum wanted to show the public, that sometimes “not everything works” as in the case of Christoph Buchel. Curiously, in an email to the director and curator, Dante Birch noted that; “In my mind, we need to focus on the interests of the museum at this point. If Buchel doesn’t return, this isn’t a show about the artist – it becomes a show about the museum.”
In an e-mail interview conducted with Mass MoCA’s, PR and marketing director, Katherine Myers, she was asked; “What expectations did Mass MoCA have when Made at Mass MoCA opened to the public?” She replied that, “We thought the public would be interested in an exhibition about how contemporary art is made. The nature of art-making is no longer the lone artist toiling away in a garrett. Made at MM was intended to illuminate the process through which these large installations come to reality.”

Aaron Martin, a University of Akron graduate student, was an intern at Mass MoCA during the summer of 2007. Part of his internship responsibilities was giving tours to visitors through the Made at Mass MoCA exhibit. In an interview with Martin, he said that Mass MoCA told all the employees giving tours of the exhibit in Building 5 to use this official line when describing the Buchel exhibit: “Materials that were assembled for an exhibition that had been canceled.”

According to Martin, security guards were placed in Building 5, so “you could not look at the exhibition.” Visitors would be guided through the tarp covered “materials” to the back of the building, where the actual Made at Mass MoCA exhibit was installed. Mass MoCA made a “clever documentary show” depicting the events that had occurred in Building 5, “trying to make MoCA look good,” said Martin.

The exhibit included didactics explaining what happened with Training Ground and included models, pictures, video, and a table with clippings of newspaper articles relating to the case. There was also a tarp with Buchel’s
demands letter attached to it “and behind the tarp was the stuff that you couldn’t actually see.” When I asked Martin about the visitors reaction to the exhibit he noted that they were “hugely disappointed” at seeing tarps and trash everywhere. Martin added that the exhibit “really hurt the museum.”
VARA

The Visual Artists Rights Act (VARA) 1990, was passed by Congress. The Act, “specifically granted makers of only certain types of visual art some rights not available under US copyright generally (and thus not available to authors of text, for example). These include the right to proper attribution; the right to prevent any intentional distortion, mutilation, or other modification of a work that would be prejudicial to the artist’s “honor or reputation”; and the right to prevent any destruction of a work of “recognized stature”.” Below are the major principles encompassed under VARA:

(a) Rights of Attribution and Integrity — Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art—
(1) shall have the right—
(A) to claim authorship of that work, and
(B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;
(2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work which would be prejudicial to his or her honor or reputation; and
(3) subject to the limitations set forth in section 113 (d), shall have the right—
(A) to prevent any intentional distortion, mutilation, or other modification of that work which would be prejudicial to his or her
honor or reputation, and any intentional distortion, mutilation, or modification of that work is a violation of that right, and (B) to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.\textsuperscript{67}

It is interesting to note that the “US Copyright Act protects the exclusive right (with some limitations) of the author of any creative work, visual or otherwise, to control the ability to copy, reproduce, distribute, display, or perform the work, or to make a derivative work.”\textsuperscript{68} Only with the passing of VARA in 1990, were artists’ “moral rights” actually protected under the US federal copyright laws, as a limited extension of those laws.

In April 2007, Christoph Buchel hired attorney, Donn Zaretsky, to represent him in court against Mass MoCA. Zaretsky immediately notified MoCA that under no circumstances could they show Buchel’s work to the public or press in its unfinished state. Zaretsky also told the museum that, “Not only is it shocking that a fine art museum would ever consider exhibiting an artist’s incomplete work against his wishes, it is also in this case, (1) illegal – a violation of the Visual Artists Rights Act (because, given the enormous publicity the project has already received, it would be impossible to disassociate Mr. Buchel’s name from the work and, in addition, it could not be accomplished without distorting and modifying elements of the work against his wishes) and (2) a breach of the parties’ clear understanding (it was always made very clear that none of the elements of the work could be shown other than as part of the complete installation).\textsuperscript{69}
Buchel and his attorney Zaretsky, additionally sued the museum to dismantle his artwork and not to show any parts of it to the public. At the same time, many in the art world wondered if Buchel’s argument against the museum under the protection of VARA was going to be a very close call, in the sense that the exhibit was not complete. This was a unique case. It “presents questions of considerable significance in the art world: Does someone other than the visual artist have the right to decide when that artist’s work is finished or otherwise in a state suitable to be shown to the public?”

In a rare e-mail form Buchel to Thompson from mid April, by that time they no longer communicated anymore, except through their lawyers. Buchel raised an interesting argument to Mass MoCA: “Did you ever realize that your institution and your job is based on art production and that you destroy the condition of its existence, the artwork and artist concept, by doing all this?”

The Court Case

During the depositions, matters were further complicated because Buchel was in Switzerland tending to his father who was sick with cancer. Buchel could not come to the United States during this time, finally it was agreed that he could do his deposition in an east coast airport - JFK, Newark or Logan – so that he could quickly return to his father’s side on the same day. Buchel insisted that the depositions should be videotaped. Later it was discovered that Buchel wanted to use the deposition videos as art installations.
The situation took on a different turn when it was rumored that Buchel was now selling copies of e-mails. Skadden & Arps, the law firm representing Mass MoCA, pro-bono, requested that Buchel sign a confidentiality agreement in regard to the e-mail correspondence, he refused. MoCA’s law firm noted; “We have heightened concerns in this respect, given reports that Mr. Buchel is selling copies of correspondence with the director of Mass MoCA, Joe Thompson.”

In actuality, Buchel was selling copies of the e-mails in art galleries in Basil, Switzerland, and later in Miami, FL. Buchel also requested that Mass MoCA release other e-mail correspondence between the MoCA staff in regard to Training Ground. MoCA refused, on the grounds that it was protecting its employee’s rights and agreed to only release this information as “confidential” and “on attorney’s – eyes – only basis.” In response, MoCA also claimed that: “(a substantial volume of e-mail correspondence between Mr. Buchel and his assistants and galleries appears to be missing).” Both parties essentially refused to release the requested information. (As of March 2008, Buchel is still pursuing the above mentioned documents from Mass MoCA, so he can use them in future installations of his artwork).

In mid September 2007, U.S. District Judge, Michael A. Ponsor, the presiding judge on the case took a tour of Training Ground for Democracy at Mass MoCA to get better acquainted with the work of Christoph Buchel. After his visit of the unfinished installation, with the tarps off, the judge confessed: “I approached this exhibition skeptically, I was extremely moved by this piece of art.
It is very powerful. It is not particularly pleasant to walk through. It is the kind of art that wakes you up in the middle of the night.”

He added that he was, “very disappointed that such a powerful piece finds itself embroiled in such legal controversies.”

The judge continued by saying that, “this controversy doesn’t belong here. This is a passionate disagreement about aesthetic ideology and the rights of an artist and the process of creation that is extremely ill-suited to the courtroom.”

The judge further chastised both parties for not having an initial written contract, signed by both parties. The judge said: “Jeez, a second-year law student could have drafted a contract that would have eliminated 90 percent of the problems the parties are now arguing about.”

When Thompson was asked why Mass MoCA deviated from usual procedures of having contracts with artists on large installations, he only said that: “I don’t think a contract would have made any difference at all in this case, I have some regrets. The lack of a single signature is not on my list.”

There is much to be debated on the issue of “contract” in this case, the e-mails and the initial model for Training Ground made by Buchel “technically” serves as a contract between the institution and the artist according to certain elements of contract law.

In this case, unfortunately, it did not make a difference in regard to having or not having a contract of any kind. Both parties deviated from their initial agreement about the scope, budget, and time frame of Training Ground for Democracy. As a result, what could have been a simple installation, beneficial to both parties, ended up in court and scrutinized by the press and the art world.
The much anticipated ruling in the art world of Mass MoCA v. Buchel came on Saturday, September 22\textsuperscript{nd} 2007. Judge Ponsor ruled in favor of Mass MoCA, rejecting Buchel’s argument that showing his unfinished work violated the Visual Artists Right Act of 1990. The essential explanation was given that there was no provision in VARA prohibiting showing unfinished artwork, simply because it is unfinished. The judge ordered that the museum could open the installation as long as it was clearly marked “unfinished.” Ponsor said, “It is no distortion to exhibit something by saying exactly what it is.”\textsuperscript{79} Buchel was not in court at the time of the ruling. In light of the ruling that an unfinished work does not qualify under the protection of the law, Buchel’s other lawyer, Mark Elliott made a comment that this is “an absolute heresy in the art world.” The judge also ruled that “Mass MoCA had much more to lose than Buchel if the work was never shown… Showing this work will do nothing but enhance Mr. Buchel’s reputation” said the judge.\textsuperscript{80}

Zaretsky said that he was “disappointed” with the courts decision and that he would likely appeal the judges’ decision. Thompson on the other hand said, “We very much appreciate the fact that the court granted us the right to use our discretion and we’ll use it very carefully.”\textsuperscript{81} In conclusion, the judge made a very interesting remark, he was wondering aloud if “the work had expanded to include his own courtroom?”\textsuperscript{82} This is definitely something to think about when it comes to “Herr Buchel”, as some called him.
Training Ground for Democracy: Aftermath

After almost a year of bitter disputes, arguments, threats and wasted money, the exhibit was never shown as Buchel and Mass MoCA first intended in the summer of 2006. Following the trial, Joe Thompson spoke with the MoCA staff, trustees, and art scholars to consider how the museum should proceed with Training Ground. Thompson concluded that it was time to dismantle Training Ground for Democracy. He also said that “Christoph’s own views on the matter did have weight with me.”83 In a later interview Thompson confessed that: “We took all kinds of considerations, some of them purely logistical. But to tell you the truth, we’re just sick of it and wanted to move on. It’s a matter of looking forward instead of backward.”84

Donn Zaretsky, Buchel’s attorney said that he was “pleased” with MoCA’s decision to dismantle the show and that “this is the right decision for my client, for the cause of artistic freedom, and even for the museum itself.”85 The logistics involved in removing the unfinished installation from Building 5 took Mass MoCA considerable time and money, $40,000 to be precise, bringing the total cost of the installation to a little over $400,000.

Buchel was notified by Mass MoCA that he can come and remove whatever elements of the installation he wished to keep for his future shows. Some of the Training Ground pieces did appear in later Buchel installations. All was not wasted. The remaining work left behind was not sold as art or displayed as such. Mass MoCA said that, “many of the objects were donated by local community members from their households, others are perfectly usable things that
it would be a shame to throw away. We found good places for those. Clothes, stretchers, beds, file cabinets. In some ways, what we have left is a vast recycling effort."

In the meantime Buchel, who rarely speaks to the press, sent the Boston Globe an e-mail with an offer to Mass MoCA. He wanted to “donate a “permanent installation” that wouldn’t cost anything and ended his e-mail with an image of his plan, a tweak of the museum’s rooftop sign to spell out “Mass CoMA”.

In light of this and other developments during the case, some people in the art world speculated and suggested that: “Buchel might have purposely forced the exhibition to a halt as a final act of the work itself – a literal demonstration of the kind of futility and absurdity that he seeks to communicate in the exhibition, with war, religion and the news media as his motifs.” When Thompson was asked if Buchel’s presumed actions were some sort of a “big ruse”, a stunt or a stalemate itself, he said that “At times it certainly felt that way to me.

The speculation and questions on this matter still continue today. It’s highly unlikely that this is really what Buchel intended to do when he agreed to the installation at Mass MoCA. The stalemate itself developed because of money issues and misunderstandings, not because of some pre-planned show that would end up in a legal quagmire as a stunt to get attention. Even months later after Training Ground had been dismantled, people still inquired to Thompson about this possibility. He added that “Like the Iraq story itself, the show has become a
black hole, with no good exit. Perhaps that’s the uber-metaphor he’s driving at—though I think a deep-seated bi-polarity is more likely the driving force here.”\textsuperscript{90}

The dispute was “technically” over after Mass MoCA dismantled the exhibit Training Ground for Democracy, but much was to be debated in regard to the way the case was handled by Buchel, MoCA and judge Ponsor. By December 2007, Buchel was exhibiting his new installation “Training Ground for Training Ground for Democracy”, at Art Basel Miami Beach. He offered visitors a compact version of Training Ground, it was comprised of a trashed alley, a room with voting booths, photographs of Buchel’s unfinished installation at MoCA and the infamous unflattering e-mail correspondence between him and Thompson.

The battle for the “confidential e-mails” continues even today between Buchel and Mass MoCA, which has refused to release the remaining e-mails. Buchel wants the emails for his continuing exhibitions to expose Mass MoCA’s alleged mismanagement issues. Buchel contends that this is an issue of freedom of speech and transparency. He alleges that MoCA lied about the budget. Thompson on the other hand claims that, “We’ve been extremely forthcoming in our provision of documents. I’ve known that Christoph was selling or attempting to sell personal correspondence of mine, and I haven’t been kicking and screaming about that.”\textsuperscript{91}

As of March 2008, Buchel is continuing his Crusade against Mass MoCA with his new exhibit: “\textit{Made by Mass MoCA (Training Ground for Confidentiality)}.” This installation consists of the usual correspondence e-mails between Buchel and Thompson; and, to add fuel to the fire, Buchel included
pages and pages of spreadsheets with the proposed budget for the original
“Training Ground” by Mass MoCA. In this case the “major underlying theme for
Mr. Buchel is what he called “the creative economy,” the way that in his view,
museums – particularly American ones – seem to care less about the art than they
do abut their image, budget, attendance and expansionist visions as they become
evermore a part of the entertainment culture.”
It appears that Buchel and Mass MoCA are still on the road to training ground for democracy. Battles have been fought but who won the war? A lingering question remains, where will the battle for democracy in the art world take place next time?
CHAPTER V

CONCLUSION

An assessment of this case reveals and highlights the reality of the modern patronage system of institutions and artists collaborating together to create a work of art on a large scale. It gives an in-depth look at the inner workings of institutional efforts to collaborate and sometimes to fail to communicate clearly with an artist to complete a project. Mass MoCA’s institutional flaw was in failing to initiate and draft a simple contract outlining the budget, scope, and timeline of the exhibition with the artist in the initial steps of the project.

The museum deviated from regular practices and policies, by giving the artist the assumption and, ultimately the claim that he could do as he pleased with the project. The artist did not regard the fact that the museum’s financial sources were limited; he overlooked the realities of the budget, scope, and timeline of the project. The inability and ultimate unwillingness to reach a reasonable relationship compromised the project to an unprecedented scale, ending in its eventual dismantling and destruction. This case highlights the strengths and weaknesses of not having a contract with an artist. It was poor management on behalf of the museum. In regard to Mass MoCA’s board of trustees, it became apparent that public statements or involvement on behalf of board members was
minimal or none. The board, in this case, appears to have supported the museum’s director Joe Thompson.

As of today, Thompson is still Mass MoCA’s director. He apparently maintained a strong relationship with the board, despite the recent controversy.

The vast number of e-mails that came out of this case serve as a valuable tool for deciphering the incident and gives an in-depth look at institutional communication between a museum and an artist. The installation started with such an optimistic outlook on the project in its initial stages. Both parties seemed in agreement with each other and were both anxious to collaborate on such a large project. Nato Thompson, Mass MoCA’s curator for “Training Ground for Democracy,” was enthusiastic to work with Buchel and in Building 5. Nato wanted the opportunity to show that he could accomplish the large installation, as he stated in e-mails to Joe Thompson. As events unfolded and problems arose, correspondence between Buchel and Mass MoCA would deteriorate as the early 2007 e-mails confirm.

Both institution and artist in this case were subject to criticism and collateral damage as a result of mismanagement, miscommunication and failure to comply with each other. In the aftermath of this controversy, the museum has been stigmatized and tarred with a negative perception in the art world for its perceived disregard of the artists’ wishes. The reputation of the artist was also damaged in light of the e-mails that were released during the court case. Buchel’s demands also strained Mass MoCA and contributed to it making compromises against its own policies and procedures.
This incident brings to light a power struggle between an institution and an artist. Initially the institution had control of the situation. Buchel gained power by abandoning and threatening the museum. The court passed the power back to the institution by giving them the right to open the unfinished installation. Buchel’s mechanism for dealing with this process was to dissect the episode in his exhibits and critically analyze the case. The museum coped with this controversy by moving on and making other exhibitions. Joe Thompson said he was “looking to the future.”

Significant questions arise as a result of this case. What are its implications in regard to artist rights? What affect might it have on museum administrative policies? The court’s finding in this case interprets narrowly the Visual Artists Rights Act (VARA) of 1990. The judge did not uphold Buchel’s claim that the “moral rights” of the artist are protected under this act. According to the judge, VARA does not protect “unfinished artwork” and displaying such work does not violate an artist’s “moral rights” as long as signage is placed declaring that the artwork is in an unfinished state. This case, and the public outcry it has generated in the art world suggest that VARA should be re-assessed and amended by lawmakers with an eye to clarifying language to include protection of the rights of artists in cases related to works in progress, or “unfinished”. If the law had been clearly defined, issues such as this case would not occur to such an extent. Artists and institutions rights would have had more protection under the law.
The administrative policy this case has generated raises a truly universal question of protocol for museums that collaborate with artists in the creation of work as well as the exhibition of work. Simply put, this issue involves not just a matter of “aesthetic ideology” as judge Ponsor claimed. It is a complex matrix in terms defining who ultimately controls a collaborative work of art at the various stages of its creation. In fact, though MoCA won the court ruling, consideration was given to the “artist’s view,” and the installation was dismantled.

There are multiple perspectives regarding the outcome of this case. The museum obviously suffered financially. Over $400,000 was spent on “Training Ground for Democracy.” Virtually all of it was lost as the exhibition was never opened to the public. Financially, the museum was left empty handed. The other issue for the museum was damage to its institutional reputation as a result of having been publicly humiliated and ridiculed by the press.

In Buchel’s view, the museum did not have the right to show his work without his direct permission and he protested that fact. Yet, after the verdict from Judge Ponsor, Buchel capitalized on the controversy by exhibiting and selling correspondence e-mails between himself and Joe Thompson. Buchel further aggravated the situation and deliberately manipulated the issue in his favor by utilizing these new installations as critiques of the incident.

The Boston Globe, an influential local newspaper, had a direct impact on the case by bringing it to national attention. The New York Times, Arts-journal, and other major media outlets picked up on the incident, influencing public perception of the situation at Mass MoCA. The editorializing media were divided
in their interpretations of the case. A majority of articles supported Buchel’s claim. Like the media, the opinions of the art world was also split. The museum was criticized for mishandling the situation and Buchel was criticized for taking advantage of the museum.

In retrospect, the case has resulted in a conservative atmosphere and new caution in regard to negotiations between museums and artists. Certainly Mass MoCA has become more conservative in the way they do business with artists. The case also exposed the affect of such a controversy on intricate practices and procedures that non-profit organizations use in raising funds for exhibits for the sheer survival of their institutions. In a recent e-mail interview with Mass MoCA’s marketing director Katherine Myers, she mentioned how hard it is to raise funds for exhibitions. Myers said: “Funding for major installations is difficult to obtain on a good day. If we (artists and museums) take money from donors and then do not deliver on projects, those donors will stop giving which is bad for the creation of contemporary art in general.”

Art and culture is important in our society. The preservation and creation of art should be enabled rather than hindered by laws and policies, mismanaged or otherwise. Paramount attention must be given to cases like this, because of the multitude of lessons to be learned. The study of this case is useful in avoiding such situations in the future for both artists and museums of all sizes. The end result of a positive collaboration benefits artists, museums, and the citizens that museums have a responsibility to serve.
END NOTES

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APPENDIX

Human Subjects Approval Letter

The University of Akron

NOTICE OF APPROVAL

Date: March 4, 2008

To: Liviu Vasu
389 Sherman St., Apt. 101
Akron, Ohio 44311

From: Sharon McWhorter, IRB Administrator

Re: IRB Number 20080301
"Case Study: Mass MoCA (Training Ground for Democracy, Exhibit)

Thank you for submitting your Exemption Request for the referenced study. Your request was approved on March 3, 2008. The protocol represents minimal risk to subjects and matches the following federal category for exemption:

☐ Exemption 1 - Research conducted in established or commonly accepted educational settings, involving normal educational practices.

☐ Exemption 2 - Research involving the use of educational tests, survey procedures, interview procedures, or observation of public behavior.

☐ Exemption 3 - Research involving the use of educational tests, survey procedures, interview procedures, or observation of public behavior not exempt under category 2, but subjects are elected appointed public officials or candidates for public office.

☐ Exemption 4 - Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens.

☐ Exemption 5 - Research and demonstration projects conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine public programs or benefits.

☐ Exemption 6 - Taste and food quality evaluation and consumer acceptance studies.

Annual continuation applications are not required for exempt projects. If you make changes to the study's design or procedures that increase the risk to subjects or include activities that do not fall within the approved exemption category, please contact me to discuss whether or not a new application must be submitted. Any such changes or modifications must be reviewed and approved by the IRB prior to implementation.

Please retain this letter for your files. If the research is being conducted for a master’s thesis or doctoral dissertation, the student must file a copy of this letter with the thesis or dissertation.

Cc: Advisor - Durand Pope

☐ Approved consent form/s enclosed

Office of Research Services and Sponsored Programs
Akron, OH 44325-2102
330-972-7866 • 330-972-6281 Fax
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