

Art Law Gallery

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[We Are Living in an Immaterial World](#)

The Museum of Modern's Art (MoMA) recently announced its 'acquisition' of the typographic '@' symbol. This unprecedented move marks a significant step into the unexplored realm of 'acquiring' non-physical objects.

As bloggers, critics, and fans erupt, many question the artistic merits and legal logistics of the conveyance, the museum's only "free" acquisition. In order to acquire the '@' symbol, MoMA's Senior Curator Paola Antonelli went through the standard acquisitions processes internally within the museum, including pitching the idea to the museum's Design and Acquisition Committee and researching the symbol's long and storied history. The next standard step in the acquisition process would have been for MoMA to contact the owner of the *objet d'art* to begin negotiations for the terms of sale. However, '@' is a non-object existing in the public domain. Like the English language or Einstein's $E = MC^2$, the "public domain" refers to works, ideas and information which are intangible to private ownership and/or which are available for use by all members of the public. Therefore, '@' is not covered by intellectual property rights at all. Look down at your keyboard, we all use '@' and we all own it—or conversely no one owns it. Thereby, MoMA cannot acquire or obtain any property rights or copyright privileges to the symbol. There is no need for a written contract, a sale price, or a discussion of any of the main deal points including without limitation: promotion, framing, insurance, storage or crating and shipping. MoMA's 'acquisition' (we really can't write that without quotation marks) is complete and all deal points 'negotiated.' MoMA can now proudly display the '@' non-object in its hallowed halls in between Picasso's paintings and Serra's sculptures.

Traditionally, museums are defined by their acquisitions. For example, the identity of the Huntington Library is inextricably linked with its most famous acquisition Thomas Gainborough's *Blue Boy*. Comparatively, Leonardo Da Vinci's *Mona Lisa* is so much a part of the Louvre's canonical image, that one cannot imagine one without the other. Where museums toed this boundary of museological identity with conceptual, performance, and installation art—MoMA has now cannon balled headfirst into the water. MoMA is challenging the traditional and logical assumption that it is impossible to own something that is both "free" and physically "non-existent". In fact, this latest acquisition will be displayed in different typefaces as if the font, like oil paints, are the materials that '@' is made of. Potentially, MoMA's actions can even launch a new trend of acquiring intangible objects. (Watch out '&' ampersand!)

MoMA's acquisition may seem unprecedented, commentators are likening the '@' acquisition to the predominance of new media in art, in which online works are immaterial and freely accessible to all. Similarly capturing the trend of intangible, untraditional works of art, New York's New Museum recently launched the exhibition titled "Free", a show exploring the Internet as a public art space. The exhibit utilizes open-source curating and presents art that engages with the Internet existing both online and on free standing platforms. The philosophy of free culture and open sharing grounds the exhibit, which includes sculptures made of objects found on eBay as well as collages of web-based images. These developments illustrate the importance of extending the concepts of art beyond the traditional physical object. Acquiring '@' has potential implications not only for the fields of intellectual property and copyright law, but also has the capability to affect the standard

acquisition processes museums routinely administer when adding to their collections. After all, because MoMA cannot claim any property rights to the symbol, potentially any other museum is free to also acquire '@' as part of its own collection.

While some question whether the acquisition of '@' was even necessary, others are also skeptical about whether the symbol is of a quality to warrant being featured in a museum. Critics also wonder what will come next and how far immaterial acquisitions will extend, claiming MoMA is launching a slippery slope. Is this potentially the boldest acquisition in history or simply more hot air accompanying modern art? Despite the concerns and the questions, MoMA sees the '@' acquisition as a "design of extraordinary elegance and economy." In fact, '@' has both a long and changing history—originating as early as the 15th century when medieval monks used the symbol to mean "ad" (Latin for "to" or "toward") in written manuscripts. The symbol emerged again during the Renaissance, as traders also used the symbol to mean "amphora"—which is a unit of measurement and a word to describe a ceramic vessel.

In 1885, in its modern incarnation '@' appeared on the American Underwood typewriter. American engineer Ray Tomlinson would take the '@' symbol one step further. In 1967, developing an internet network for the company BBN, Tomlinson created what today is universally known as e-mail. Launching '@' into an international icon, Tomlinson decided to use the '@' symbol to designate a specific user "at" (@) a specific host computer. Today, '@' continues to be ubiquitously used to define individual's online internet identities, especially with the rise of social networking websites. For instance, '@' is fundamental to communication via Twitter, as users can only communicate directly with others by placing the '@' symbol before the username, (for instance, MoMA's twitter address is @museummodernart). MoMA believed the '@' symbol's diverse and changing history merited the museum's recognition of it as part of its collection.

MoMA's acquiring '@' reflects society's mandate to push artistic boundaries beyond the ordinary and the tangible. Perhaps the 'acquisition' is best summarized by MoMA's senior curator of design, Paulo Antonelli, "Why should we be stopped by the laws of physics?"