Letter to the Superior Court of Quebec Regarding Arg.org

Charles Stankievech
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To the Superior Court of Quebec:

I am writing in support of the online community and library platform called "Arg.org" (also known under additional aliases and urls including "aaaaarg.org," "grr.aaaaarg.org," and most recently "grr.aaaaarg.fail"). It is my understanding that a copyright infringement lawsuit has been leveled against two individuals who support this community logistically. This letter will address what I believe to be the value of Arg.org to a variety of communities and individuals; it is written to encompass my perspective on the issue from three distinct positions: (1) As Director of the Visual Studies Program, Faculty of Architecture, Landscape, and Design, University of Toronto, where I am a professor and oversee three degree streams for both graduate and undergraduate students; (2) As the co-director of an independent publishing house based in Berlin, Germany, and Toronto, Canada, which works with international institutions around the world; (3) As a scholar and writer who has published in a variety of well-regarded international journals and presses. While I outline my perspective in relation to these professional positions below, please note that I would also be willing to testify via video-conference to further articulate my assessment of Arg.org's contribution to a diverse international community of artists, scholars, and independent researchers.

"Warburgian tradition."[47] If we consider the Warburg Library in its simultaneous role as a contained space and the reflection of an idiosyncratic mental energy, General Stumm's aforementioned feeling of "entering an enormous brain" seems an especially concise description. Indeed, for Saxl the librarian, "the books remain a body of living thought as Warburg had planned,"[48] showing "the limits and contents of his scholarly worlds."[49] Developed as a research tool to solve a particular intellectual problem—and comparable on a number of levels to exhibition-led inquiry—Aby Warburg's organically structured, themed library is a three-dimensional instance of a library that performatively articulates and potentiates itself, which is not yet to say *exhibits*, as both spatial occupation and conceptual arrangement, where the order of things emerges experimentally, and in changing versions, from the collection and its unusual cataloging.[50]

47   Saxl speaks of "many tentative and personal excrescences" ("The History of Warburg's Library," 331). When Warburg fell ill in 1920 with a subsequent four-year absence, the library was continued by Saxl and Gertrud Bing, the new and later closest assistant. Despite the many helpers, according to Saxl, Warburg always remained the boss: "everything had the character of a private book collection, where the master of the house had to see it in person that the bills were paid in time, that the bookbinder chose the right material, or that neither he nor the carpenter delivering a new shelf over-charged" (Ibid., 329).

48   Ibid., 331.

49   Ibid., 329.

50   A noteworthy aside: Gertrud Bing was in charge of keeping a meticulous index of names and keywords; evoking the library catalog of Borges's fiction, Warburg even kept an "index of un-indexed books." See Diers, "Porträt aus Büchern," 21.

1. Arg.org supports a collective & semiprivate community of academics & intellectuals.

As the director of a graduate-level research program at the University of Toronto, I have witnessed first-hand the evolution of academic research. Arg.org has fostered a vibrant community of thinkers, students, and writers, who can share their research and create new opportunities for collaboration and learning because of the knowledge infrastructure provided by the platform. The accusation of copyright infringement leveled against the community misses the point of the research platform altogether. While there are texts made available for download at no expense through the Arg.org website, it is essential to note that these texts are not advertised, nor are they accessible to the general public. Arg.org is a private community whose sharing platform can only be accessed by invitation. Such modes of sharing have always existed in academic communities; for example, when a group of professors would share Xerox copies of articles they want to read together as part of a collaborative research project. Likewise, it would be hard to imagine a community of readers at any time in history without the frequent lending and sharing of books. From this perspective, Arg.org should be understood within a twenty-first century digital ethos, where the sharing of intellectual property and the generation of derivative IP occurs through collaborative platforms. On this point, I want to draw further attention to two fundamental aspects of Arg.org.

a. One essential feature of the Arg.org platform is that it gives invited users the ability to create reading lists from available texts—what are called on the website "collections." These collections are made up of curated folders containing text files (usually in Portable Document Format); such collections allow for new and novel associations of texts, and the development of working bibliographies that assist in research. Users can discover previously unfamiliar materials—including entire books and excerpted chapters, essays, and articles—through these shared collections. Based on the popularity of previous collections I have personally assembled on the Arg.org platform, I have been invited to give

In the Memory Hall of Reproductions

Several photographs document how the Warburg Library was also a backdrop for Warburg's picture panels, the wood boards lined with black fabric, which, not unlike contemporary mood boards, held the visual compositions he would assemble and re-assemble from around 2,000 photographs, postcards, and printed reproductions cut out of books and newspapers. Sometimes accompanied by written labels or short descriptions, the panels served as both public displays and research-in-process, and were themselves photographed with the aim to eventually be disseminated as book pages in publications. In the end, not every publishing venture was realized, and most panels themselves were even lost along the way; in fact, today, the panel photographs are the only visual remainder of this type of research from the Warburg Institute. Probably the most acclaimed of the panels are those which Warburg developed in close collaboration with his staff during the last years of his life and from which he intended to create a sequential picture atlas of human memory referred to as the *Mnemosyne Atlas*. Again defying the classical boundaries of the disciplines, Warburg had appropriated visual material from the archives of art history, natural philosophy, and science to vividly evoke and articulate his thesis through the creation of unprecedented associations. Drawing an interesting analogy, the following statement from Warburg scholar Kurt Forster underlines the importance of the panels for the creation of meaning:

> Warburg's panels belong into the realm of the montage à la Schwitters or Lissitzky. Evidently, such a

guest lectures at various international venues; such invitations demonstrate that this cognitive work is considered original research and a valuable intellectual exercise worthy of further discussion.

b. The texts uploaded to the Arg.org platform are typically documents scanned from the personal libraries of users who have already purchased the material. As a result, many of the documents are combinations of the original published text and annotations or notes from the reader. Commentary is a practice that has been occurring for centuries; in Medieval times, the technique of adding commentary directly onto a published page for future readers to read alongside the original writing was called "Glossing." Much of the philosophy, theology, and even scientific theories were originally produced in the margins of other texts. For example, in her translation and publication of Charles Babbage's lecture on the theory of the first computer, Ada Lovelace had more notes than the original lecture. Even though the text was subsequently published as Babbage's work, today modern scholarship acknowledges Lovelace as important voice in the theorization of the modern computer due to these vital marginal notes.

2. Arg.org supports small presses.
Since 2011, I have been the co-founder and co-director of K. Verlag, an independent press based in Berlin, Germany, and Toronto, Canada. The press publishes academic books on art and culture, as well as specialty books on art exhibitions. While I am aware of the difficulties faced by small presses in terms of profitability, especially given fears that the sharing of books online could further hurt book sales; however, my experience has been in the opposite direction. At K. Verlag, we actually upload our new publications directly to Arg.org because we know the platform reaches an important community of readers and thinkers. Fully conscious of the uniqueness of printed books and their importance, digital circulation of ebooks and scanned physical books present a range of different possibilities in reaching our audiences in a variety of ways. Some members of Arg.org may be too

comparison does not need to claim artistic qualities for Warburg's panels, nor does it deny them regarding Schwitters's or Lissitzky's collages. It simply lifts the role of graphic montage from the realm of the formal into the realm of the construction of meaning.[51]

Interestingly, even if Forster makes a point not to categorize Warburg's practice as art, in twentieth-century art theory and visual culture scholarship, his idiosyncratic technique has evidently been mostly associated with art practice. In fact, insofar as Warburg is acknowledged (together with Marcel Duchamp and, perhaps, the less well-known André Malraux), it is as one of the most important predecessors for artists working with the archive.[52] Forster articulates the traditional assumption that only artists were "allowed" to establish idiosyncratic approaches and think with objects outside of the box. However, within the relatively new discourse of the "curatorial," contra the role of the "curator," the curatorial delineates its territory as that which is no longer defined exclusively by what the curator *does* (i.e. responsibilities of classification and care) but rather as a particular agency in terms of epistemologically and spatially working with existing materials and collections. Consequently, figures such as Warburg

51   Kurt Forster, quoted in Benjamin H.D. Buchloh, "Gerhard Richter's Atlas: Das anomische Archiv," in *Paradigma Fotografie: Fotokritik am Ende des fotografischen Zeitalters*, ed. Herta Wolf (Frankfurt/M.: Suhrkamp Verlag, 2002), 407, with further references.
52   One such example is the *Atlas* begun by Gerhard Richter in 1962; another is Thomas Hirschhorn's large-format, mixed-media collage series *MAPS*. Entitled *Foucault-Map* (2008), *The Map of Friendship Between Art and Philosophy* (2007), and *Hannah-Arendt-Map* (2003), these works are partly made in collaboration with the philosopher Marcus Steinweg. They bring a diverse array of archival and personal documents or small objects into associative proximities and reflect the complex impact philosophy has had on Hirschhorn's art and thinking.

poor to afford to buy our books (eg. students with increasing debt, precarious artists, or scholars in countries lacking accessible infrastructures for high-level academic research). We also realize that Arg.org is a library-community built over years; the site connects us to communities and individuals making original work and we are excited if our books are shared by the writers, readers, and artists who actively support the platform. Meanwhile, we have also seen that readers frequently discover books from our press through a collection of books on Arg.org, download the book for free to browse it, and nevertheless go on to order a print copy from our shop. Even when this is not the case, we believe in the environmental benefit of Arg.org; printing a book uses valuable resources and then requires additional shipping around the world—these practices contradict our desire for the broadest dissemination of knowledge through the most environmentally-conscious of means.

3. Arg.org supports both official institutional academics & independent researchers.

As a professor at the University of Toronto, I have access to one of the best library infrastructures in the world. In addition to core services, this includes a large number of specialty libraries, archives, and massive online resources for research. Such an investment by the administration of the university is essential to support the advanced research conducted in the numerous graduate programs and by research chairs. However, there are at least four ways in which the official, sanctioned access to these library resources can at times fall short.

a. Physical limitations. While the library might have several copies of a single book to accommodate demand, it is often the case that these copies are simultaneously checked out and therefore not available when needed for teaching or writing. Furthermore, the contemporary academic is required to constantly travel for conferences, lectures, and other research obligations, but travelling with a library is not possible. Frequently while I am working abroad, I access Arg.org to find a book which I have previously

and Malraux, who thought apropos objects in space (even when those objects are dematerialized as reproductions), become productive forerunners across a range of fields: from art, through cultural studies and art history, to the curatorial.

Essential to Warburg's library and *Mnemosyne Atlas*, but not yet articulated explicitly, is that the practice of constructing two-dimensional, heterogeneous image clusters shifts the value between an original work of art and its mechanical reproduction, anticipating Walter Benjamin's essay written a decade later.[53] While a museum would normally exhibit an original of Albrecht Dürer's *Melencolia I* (1514) so it could be contemplated aesthetically (admitting that even as an etching it is ultimately a form of reproduction), when inserted as a quotidian reprint into a Warburgian constellation and exhibited within a library, its "auratic singularity"[54] is purposefully challenged. Favored instead is the iconography of the image, which is highlighted by way of its embeddedness within a larger (visual-emotional-intellectual) economy of human consciousness.[55] As it receives its impetus from the interstices

53 One of the points Benjamin makes in "The Artwork in the Age of Mechanical Reproduction" is that reproducibility increases the "exhibition value" of a work of art, meaning its relationship to being viewed is suddenly valued higher than its relationship to tradition and ritual ("cult value"); a process which, as Benjamin writes, nevertheless engenders a new "cult" of remembrance and melancholy (224–26).

54 Benjamin defines "aura" as the "here and now" of an object, that is, as its spatial, temporal, and physical presence, and above all, its uniqueness—which in his opinion is lost through reproduction. Ibid., 222.

55 It is worth noting that Warburg wrote his professorial dissertation on Albrecht Dürer. Another central field of his study was astrology, which Warburg examined from historical and philosophical perspectives. It is thus not surprising to find out that Dürer's *Melencolia I* (1514), addressing the relationship between the human and the cosmos, was of the highest significance to Warburg as a recurring theme. The etching is shown, for instance, as image 8 of Plate 58, "Kosmologie bei Dürer" (Cosmology in Dürer); reproduced in Warnke, ed., *Aby Moritz Warburg: Der Bilderatlas Mnemosyne, Gesammelte Schriften*, Vol. 1, 106–7. The connections

purchased, and which is on my bookshelf at home, but which is not in my suitcase. Thus, the Arg.org platform acts as a patch for times when access to physical books is limited—although these books have been purchased (either by the library or the reader herself) and the publisher is not being cheated of profit.

b. Lack of institutional affiliation. The course of one's academic career is rarely smooth and is increasingly precarious in today's shift to a greater base of contract sessional instructors. When I have been in-between institutions, I lost access to the library resources upon which my research and scholarship depended. So, although academic publishing functions in accord with library acquisitions, there are countless intellectuals—some of whom are temporary hires or in-between job appointments, others whom are looking for work, and thus do not have access to libraries. In this position, I would resort to asking colleagues and friends to share their access or help me by downloading articles through their respective institutional portals. Arg.org helps to relieve this precarity through a shared library which allows scholarship to continue; Arg.org is thus best described as a community of readers who share their research and legally-acquired resources so that when someone is researching a specific topic, the adequate book/essay can be found to fulfill the academic argument.

c. Special circumstances of non-traditional education. Several years ago, I co-founded the Yukon School of Visual Arts in Dawson City as a joint venture between an Indigenous government and the State college. Because we were a tiny school, we did not fit into the typical academic brackets regarding student population, nor could we access the sliding scale economics of academic publishers. As a result, even the tiniest package for a "small" academic institution would be thousands of times larger than our population and budget. As a result, neither myself nor my students could access the essential academic resources required for a post-secondary education. I attempted to solve this problem by forging partnerships, pulling in favors, and accessing resources through platforms like Arg.org. It is important to realize

among text and image, visual display and publishing, the expansive space of the library and the dense volume of the book, Aby Warburg's wide-ranging work appears to be best summarized by the title of one of the *Mnemosyne* plates: "Book Browsing as a Reading of the Universe."[56]

To the Paper Museum

Warburg had already died before Benjamin theorized the impact of mechanical reproduction on art in 1935. But it is Malraux who claims to have embarked on a lengthy, multi-part project about similitudes in the artistic heritage of the world in exactly the same year, and for whom, in opposition to the architectonic space of the museum, photographic reproduction, montage, and the book are the decisive filters through which one sees the world. At the outset of his book *Le Musée imaginaire* (first published in 1947),[57] Malraux argues that the secular modern museum has been crucial in reframing and transforming objects into art, both by displacing them from their original sacred or ritual context and purpose, and by bringing them into proximity and adjacency with one another, thereby opening new possible readings

and analogies between Warburg's image-based research and his theoretical ideas, and von Trier's *Melancholia*, are striking; see Anna-Sophie Springer's visual essay "Reading Rooms Reading Machines" on p. 91 of this book.

56   "Buchblättern als Lesen des Universums," Plate 23a, reproduced in Warnke, *Aby Moritz Warburg: Der Bilderatlas Mnemosyne, Gesammelte Schriften*, Vol. 1, 38–9.

57   The title of the English translation, *The Museum Without Walls*, by Stuart Gilbert and Francis Price (London: Secker & Warburg, 1967), must be read in reference to Erasmus's envisioning of a "library without walls," made possible through the invention of the printing press, as Anthony Grafton mentions in his lecture, "The Crisis of Reading," The CUNY Graduate Center, New York, 10 November 2014.

that Arg.org was founded to meet these grassroots needs; the platform supports a vast number of educational efforts, including co-research projects, self-organized reading groups, and numerous other non-traditional workshops and initiatives.

d. My own writing on Arg.org. While using the platform, I have frequently come across my own essays and publications on the site; although I often upload copies of my work to Arg.org myself, these copies had been uploaded by other users. I was delighted to see that other users found my publications to be of value and were sharing my work through their curated "collections." In some cases, I held outright exclusive copyright on the text and I was pleased it was being distributed. In other rare cases, I shared the copyright or was forced to surrender my IP prior to publication; I was still happy to see this type of document uploaded. I realize it is not within my authority to grant copyright that is shared, however, the power structure of contemporary publishing is often abusive towards the writer. Massive, for-profit corporations have dominated the publishing of academic texts and, as a result of their power, have bullied young academics into signing away their IP in exchange for publication. Even the librarians at Harvard University—who spend over $3.75 million USD annually on journal subscriptions alone—believe that the economy of academic publishing and bullying by a few giants has crossed a line, to the point where they are boycotting certain publishers and encouraging faculty to publish instead in open access journals.

I want to conclude my letter of support by affirming that Arg.org is at the cutting edge of academic research and knowledge production. Sean Dockray, one of the developers of Arg.org, is internationally recognized as a leading thinker regarding the changing nature of research through digital platforms; he is regularly invited to academic conferences to discuss how the community on the Arg.org platform is experimenting with digital research. Reading, publishing, researching, and writing are all changing rapidly as networked digital culture influences professional and academic life more and more frequently. Yet, our legal frameworks and business models are always slower than the practices

("metamorphoses") of individual objects—and, even more critically, producing the general category of art itself. As exceptions to this process, Malraux names those creations that are so embedded in their original architecture that they defy relocation in the museum (such as church windows, frescoes, or monuments); this restriction of scale and transportation, in fact, resulted in a consistent privileging of painting and sculpture within the museological apparatus.[58]

Long before networked societies, with instant Google Image searches and prolific photo blogs, Malraux dedicated himself to the difficulty of accessing works and oeuvres distributed throughout an international topography of institutions. He located a revolutionary solution in the dematerialization and multiplication of visual art through photography and print, and, above all, proclaimed that an *imaginary museum* based on reproductions would enable the completion of a meaningful collection of artworks initiated by the traditional museum.[59] Echoing Benjamin's theory regarding the power of the reproduction to change how art is perceived, Malraux writes, "Reproduction is not the origin but a decisive means for the process of intellectualization to which we subject art.

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58   I thank the visual culture scholar Antonia von Schöning for pointing me to Malraux after reading my previous considerations of the book-as-exhibition. Von Schöning herself is author of the essay "Die universelle Verwandtschaft zwischen den Bildern: André Malraux'*Musée Imaginaire* als Familienalbum der Kunst," *kunsttexte.de*, April 2012, edoc.hu-berlin.de/kunsttexte/2012-1/von-schoening -antonia-5/PDF/von-schoening.pdf.

59   André Malraux, *Psychologie der Kunst: Das imaginäre Museum* (Baden-Baden: Woldemar Klein Verlag, 1949), 9; see also Rosalind Krauss, "The Ministry of Fate," in *A New History of French Literature*, ed. Denis Hollier (Cambridge, MA and London: Harvard University Press, 1989), 1000–6: "The photographic archive itself, insofar as it is the locale of a potentially complete assemblage of world artifacts, is a repository of knowledge in a way that no individual museum could ever be" (1001).

of artists and technologists. Arg.org is a non-profit intellectual venture and should therefore be considered as an artistic experiment, a pedagogical project, and an online community of co-researchers; it should not be subject to the same legal judgments designed to thwart greedy profiteers and abusive practices. There are certainly some documents to be found on Arg.org that have been obtained by questionable or illegal means—every Web 2.0 platform is bound to find such examples, from Youtube to Facebook; however, such examples occur as a result of a small number of participant users, not because of two dedicated individuals who logistically support the platform. A strength of Arg.org and a source of its experimental vibrancy is its lack of policing, which fosters a sense of freedom and anonymity which are both vital elements for research within a democratic society and the foundations of any library system. As a result of this freedom, there are sometimes violations of copyright. However, since Arg.org is a committed, non-profit community-library, such transgressions occur within a spirit of sharing and fair use that characterize this intellectual community. This sharing is quite different from the popular platform Academia.edu, which is searchable by non-users and acquires value by monetizing its articles through the sale of digital advertising space and a nontransparent investment exit strategy. Arg.org is the antithesis of such a model and instead fosters a community of learning through its platform.

Please do not hesitate to contact me for further information, or to testify as a witness.

Regards,
Charles Stankievech,
Director of Visual Studies Program, University of Toronto
Co-Director of K. Verlag, Berlin & Toronto

… Medieval works, as diverse as the tapestry, the glass window, the miniature, the fresco, and the sculpture become united as one family if reproduced together on one page."[60] In his search for a common visual rhetoric, Malraux went further than merely arranging creations from one epoch and cultural sphere by attempting to collect and directly juxtapose artworks and artifacts from very diverse and distant cultural, historical, and geographic contexts.

His richly illustrated series of books thus functions as a utopian archive of new temporalities of art liberated from history and scale by de-contextualizing and re-situating the works, or rather their reproduced images, in unorthodox combinations. *Le Musée imaginaire* was thus an experimental virtual museum intended to both form a repository of knowledge and provide a space of association and connection that could not be sustained by any other existing place or institution. From an art historical point of view—Malraux was not a trained scholar and was readily criticized by academics—his theoretical assumptions of "universal kinship" (von Schöning) and the "anti-destiny" of art have been rejected. His material selection process and visual appropriation and manipulation through framing, lighting, and scale, have also been criticized for their problematic and often controversial—one could say, colonizing—implications.[61] Among the most recent critics is the art historian Walter Grasskamp, who argues that Malraux moreover might well have plagiarized the image-based work of the

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60   André Malraux, *Das imaginäre Museum*, 16.
61   See the two volumes of Georges Duthuit, *Le Musée Inimaginable* (Paris: J. Corti, 1956); Ernst Gombrich, "André Malraux and the Crisis of Expressionism," *The Burlington Magazine* 96 (1954): 374–78; Michel Merlot, "L'art selon André Malraux, du Musée imaginaire à l'Inventaire general," *In Situ* 1 (2001), www.insitu.revues .org/1053; and von Schöning, "Die universelle Verwandtschaft zwischen den Bildern."