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Superflex Keynote Speech: If Value, Then Copy*

INTRODUCTION TO SUPERFLEX

Good afternoon, I hope that you are enjoying your meal and I thank the waiters and waitresses who are serving us, and the cooks in the back.

Good afternoon, I am Anupam Chander. I am Director of the California International Law Center, and I am a law professor here at UC Davis. I am speaking to you on behalf of Mario Biagioli and Madhavi Sunder, my colleagues at the University of California, Davis, and also on behalf of the UC Davis Law Review.

I welcome you to a keynote address for our conference titled “Brand New World: Discovering Oneself in the Global Flow.” We are delighted today to welcome Rasmus Nielsen of the internationally renowned artist-group called “Superflex.” Based in Copenhagen, Denmark, Superflex consists of Jakob Fenger, Bjørnsterne Christiansen, and Rasmus who have been collaborating together since 1993. It is hard to do justice to the work of Superflex as the range of their work is nothing less than astonishing, from creating a brand of power-drinks for an Amazonian tribe in Brazil to a television series in Vietnam on Dutch Pirates of the seventeenth century who stole a

* Transcript of keynote speech by Rasmus Nielsen at the UC Davis Law Review’s Brand New World symposium, UC Davis School of Law, October 4, 2012.

treasure trove of Southeast Asian porcelain. As you can see, even the geographic scope of their work is dazzling. Their work is in collections and exhibitions across the world from Beijing and Tokyo to Europe and California. Madhavi and I had the privilege of seeing some of their work a few years ago in Art Basel in Switzerland, where their collection of chairs, all mass-produced but yet each slightly altered with individual woodcuts, occupied a central venue on the ground floor. The work was titled provocatively *Copy Right*. Their work is often playful; trademarks and brands become part of the material for art, much like paint or a paintbrush. Last year I was in Manhattan where, in the wake of the financial crisis, they had installed a perfect replica of a JP Morgan Chase executive bathroom and made it available to patrons of an ordinary restaurant in downtown. That piece was called *Power Toilet*. Marcel Duchamp would have enjoyed using it, I'm sure.

Their work interrogates the relationship between art and commerce and a good life; they undermine the distinction between original and copy; they pose the question whether you can have a "super copy." If you walk into a Superflex exhibition, you might be lucky enough to take home a piece of art — after you've made it. They bring you into the industrial process, the process of brewing beer, or making and bottling a soda, or constructing a metal sculpture. They see their art as offering tools to all of us. They seek to empower ordinary people through their work, whether it be Guaraní people in the Amazon who make too little from the Guaraná berries they cultivate, or villagers in Thailand who lack electricity to light their homes, but can access fuels in the form of biogas. Superflex's biogas lamp in fact — based on the iconic shade design of Poul Henningsen — is featured on the cover of Madhavi Sunder's new book, *From Goods to a Good Life*. For much of their work they collaborate with others, whether it be urban landscape designers, filmmakers, or Tanzanian engineers, as was the case with their biogas lamp. Over coffee yesterday, Rasmus compared this to the collaboration of modern scientists in scientific laboratories as well as international scientific projects to map the genome. They defy the vision, in this way, of the solitary artist in his studio, cloistered away from the real world. Indeed Rasmus, Jakob, and Bjørn disappeared themselves into this entity of Superflex; taking on, if I might say, a kind of corporate existence in that way.

The title of Rasmus's talk today: *If Value, Then Copy*, is a brilliant parody of the property rights syllogism described by Rochelle Dreyfuss, and commented on by Mark Lemley, some few decades ago: *If Value, Then Right*. To me, Superflex epitomizes what art can do to question the relationships of power that exist in the world, to ask us to

look at ordinary things anew, to recognize the connections between humanity, to give us joy, and even — and I mean this almost literally — to help give us more beautiful light.

An extraordinary effort by UC Davis students, faculty, and staff has made this possible. First, let me thank, of course, Google, for helping to fund this highly interdisciplinary exploration of brands. Second, I thank Mario Biagioli and Madhavi Sunder for envisioning this conference, raising the funding, and for the unbelievable amount of energy and work they put into making it a reality. Thanks, as well, to Deven Desai, who is here, for helping to envision the conference and helping to realize it. Thanks to Deans Kevin Johnson and Ron Mangun, to Dean Jessie Ann Owens, and to the UC Davis Humanities Institute and the Center for Science and Innovation Studies, of which Mario is the director. Thanks to Gia Hellwig, Sam Sellers, Pamela Wu, Mark Hoffman, Aaron Norton, and Uyên Lê. I want to thank especially the UC Davis Law Review Editor in Chief, Marissa O'Connor, and Symposium Editors, Daniel Elefant and Nima Rahimi, who are the gentlemen who have been guiding the events this morning; and all of the Law Review staff for their logistical and editorial labors and the labors yet to come. There is not a more talented set of professionals to put together such an amazing two days. Please join me in welcoming Rasmus Nielsen of Superflex. (*Applause*).

RASMUS NIELSEN

Thank you very much! Now I don't know what to say (*Laughter*), it's the best introduction I've ever had; so thanks a lot for that. It's an honor to be here as a humble layman in the topic that we are dealing with; I am very honored by that and also I am honored to speak at this setting here which is a lunch, something I've never tried before, and it makes me feel like I am speaking at a wedding (*Laughter*) or that I am Mitt Romney speaking at a fundraising event (*Laughter*); but I guess it's the all-American experience and I am grateful for that. So I'll encourage you to just keep on eating, and I'll try to fit the talk to the food. But I think for me, having these topics in mind, I am very much of the opinion that very often when we deal with intellectual property, and brands, and things like this — especially when it comes to legal debates, which is something that I have been involved in because of work we've done that has somehow had a complicated relationship to intellectual property, to copyright, and so forth — then it is always somehow important to remember that it's really just the tip of the iceberg that you're seeing, and underneath this there is a deep, deep rabbit hole and sometimes it's good to allow yourself to fall into the rabbit hole. So I'd

thought I'd start with a couple of stories from the rabbit hole, and then we can crawl up the rabbit hole and into another hole.

A while ago, I was sitting in a meeting in Jerusalem, in a record studio. It was a meeting, and there were these guys that were singing in the background, and it was very disturbing because I could hardly hear them, but somehow thought I knew the track that they were singing, and it was very disturbing, and I had to interrupt the meeting and go and listen a little bit more to what they were actually singing because I had heard this before. I asked, "Who are these gentlemen?" — here it is these guys in the picture (*Displayed on projector*) — and I was told that they are these religious singers and they usually sing religious songs at the Dome of the Rock and at the Al-Aqsa Mosque. I'm not a Muslim and I thought, "This is weird," because I've heard this track before. So I'll play the track and perhaps you'll have a similar experience: (*Plays track with singing in Arabic*). Sounds similar to this one: (*Plays clip of old western film "Oh My Darling Clementine" with music*). Here's another version, it's a classic American song: (*Plays another clip*). I'm going to play the original track again, so you can revisit it (*Plays original track*).

So another story from the rabbit hole: this is Chester Floyd Carlson (*Displayed on projector*), he is best known for having invented electrophotography. It's basically dry copying, it's also known as the Xerox machine that we all use heavily. It's a classic American inventor who had this dream that was very simple. It was based on: I have one piece of paper and then I make a similar piece of paper. It was something that he worked with for quite some years, and he was experimenting in his basement and really fought for this, and it took a long time. Inevitably, he came up with this machine here we all know (*Xerox machine displayed on projector*); however, in this period of creating this invention he started to think about what he was really trying to do and it's (the Xerox machine) something we think of as very simple, but it's actually sort of deep and mysterious. I like the story here because it took him quite to somewhere else, and he started becoming interested in reincarnation, which you can consider to be the ultimate Xerox copy, you Xerox yourself into the next life, and he became interested in the work of this man here (*Picture displayed on projector*) who is called Ian Stevenson, who was a biochemist and a professor of psychiatry at the University of Virginia.

Ian Stevenson's field of work had a lot to do with the paranormal, and he set out to somehow prove reincarnation from a biological point of view — we have him here as well (*Points to next picture on projector*). Chester Floyd Carlson decided to sponsor this man's research and pay for the publication of these weird books like this

(*Screen shows: *European Cases of the Reincarnation Type**). He went around the world and interviewed people on the basis of memories from past lives and so forth. He's dead now, Ian Stevenson, and he somehow never quite succeeded — there was never a smoking gun. But he left a locker at the University of Virginia that has a code on it, and he said when he came back, because he would try to do that, he would be able to remember this number. So if any of you has a number in your head, you might be the reincarnated Ian Stevenson and there's a locker at the University of Virginia, and you could possibly prove to be this proof of the ultimate Xerox copy.

The last example I'd like to mention, since we are in northern California — I love this one — it's a scene from a film called *Vertigo*, that you've probably all seen; and I think everyone who is involved in these issues should watch this movie once a year, and if we don't want to watch it, we can just watch the following scene here (*Plays clip*). I'm sure you know the story, this is James Stewart and he's falling in love with a woman that he then thinks is dead. And then he meets another woman that looks a little bit like her, and he somehow tries to recreate this new woman into the old woman. Now, what he doesn't know is that she actually is, in fact, the original woman, she just pretended to be dead. He befriends this woman and this is at a point where her hair had been dyed so that she would look almost as his memory of the dead woman, but there's just something missing, which is the way the hair is put on the back of her head. So this is the last ultimate moment of creating the perfect copy that then, well, actually is the original, and the dilemma here, is that it has the whole story here, it has the desire, the possibility of the copy actually becoming the original. So I'm just going to be quiet for a moment, enjoy the perfection of the copy here: (*Watches clip*).

Thank you, Alfred. Now let's climb out the rabbit hole and into another hole: This [is] in Cambodia some fifteen years ago, and the orange hat in the hole is me (*Picture displayed on projector*). You can't see my face, and this is a period where we were working on this energy system that [is] based on various types of biological waste. This is pretty much what I and my two colleagues, Jakob and Bjørn, spent most of our time in art school doing — inventing an energy system. I can't remember how it started, a long time ago, this is a prototype of it (*Picture displayed on projector*); it basically works a little bit like this: you have various types of animal waste (*Cow waste animation displayed on projector*) that goes into a system and it creates this pressure pretty much like it does in your stomach which develops gas, which, in our concept, would be used by — and I'm not going to be too technical — we constructed this valve that uses hydraulics to

make the material move around, and this was actually something new invention-wise, we decided to make a patent. So we got a patent — I mean we were still art students and suddenly we got this patent in South Africa and in China and other places, not because we necessarily wanted to sue a lot of potential people using it, but as a kind of blueprint to make people believe in this idea and basically throw a lot of money after us. It didn't quite work out like that; it was pre-Al Gore, but that's another story.

But, anyway, let's go back into the hole. This is when the system is being used; there's gas in it and this is in a Cambodian agricultural school, a university of agriculture outside Phnom Penh. (*Gas system displayed on projector*) While doing this work fifteen years ago, something I couldn't get my head around was that these farmers who — it's one of the poorest Southeast Asian countries — the farmers I was working with there were wearing Calvin Klein clothes. This was something really strange, and somehow this became a cue to a long interest in the subject of Southeast Asian copy culture. What I quickly discovered, part of the story of course is, Calvin Klein is made in Cambodia, and there is another Cambodian version of Calvin Klein called "Convoy Kluse," and some of the farmers would also be wearing that, and it was similar kind of looking clothes.

And I couldn't get my head around "how does this work," and then I slowly came to understand that it's an economic thing — but it's also a cultural thing as a way to balance a certain economic pressure coming from the West — but also a cultural and normative pressure that you take this brand name, and you change it a little bit and you throw them out again. And that fits a little bit with this quote I stole from Madhavi[Sunder]'s book, it's a quote by Salman Rushdie, and I think it really covers what I am trying to explain here in my Danish-English — that it's really about the *power* to retell stories, and when brands cover so much of our desires and mirror our desires and create our desires, colonize our desires, they are inevitably something that we — because we want to tell our own stories, that we need to internalize and throw out again. And this strategy was interesting, and we thought that maybe we should try it out with something that comes from our own background so we, at a later point in Thailand, copied this famous Danish designer lamp "PH 5," and connected it to the biogas system and suddenly we had this strange middle-class design icon that would run on biogas in the northern parts of Thailand, and at a later point we showed this lamp in a museum in Sweden and then it all started.

There were also some "Lacoste" copies in the exhibition. We had brought back a lot of copy "Lacoste" shirts from South East Asia and

had them stamped with this logo, and then this letter started coming from these respective companies who really didn't like what we were doing. And the lamp producer here (*Picture displayed on projector*), which was a Danish company, they wanted to close the exhibition and this is like fifteen years ago or something. When you are an artist, I was kind of flattered in the beginning because this is someone who is taking what you are doing very seriously. They were saying stuff like that it will potentially be really bad for the Danish economy if we don't do anything against this art show, and it was like "wow!" I didn't know we had that power. And then this long, mail correspondence started, and the great thing about lawyers I've found out was that they always answer. When you have these cease-and-desist letters going back and forth, everything has to be answered. So we would make these arguments based on the history of art, and speak about Andy Warhol and "Blah Blah Blah," and the lawyers would have to react to this and react to [these] complicated art historical references. So they started responding and speaking about: "Yes, but what you are doing is different from Andy Warhol because he was only working in 2-D." And we would write back: "No, here's a Brillo box. It's actually 3-D." And it went back and forth a long time.

This is from another show we did in Holland in a museum (*Picture displayed on projector*). It's a work by the American artist Sol LeWitt, a classic American minimalist art, and this is considered to be one of his most important works — it's in the Dutch Museum, and it costs hundreds of thousands of dollars, but we convinced the museum to change the setting of the museum into a factory that would reproduce this famous work. So this is actually in the museum (*Picture displayed on projector*); there would be people working there and reproducing this work of Sol LeWitt, and basically handing them out randomly. And here you see a happy Dutch family leaving the museum enriched with a Sol LeWitt (*Displayed on projector*), and you can see the original is hanging on the wall behind it, and it's quite big actually. So I heard from one of the families who had gotten one of these [that] they had to cut it because it wouldn't fit in their living room.

Anyway, along this journey and getting to know more about these aspects and why people were taking this so seriously, we ran over some lawyers that we collaborated with for years, and I almost became an undergrad law student in trying to understand what this was all about. One quote that you probably all know about that became really important in trying to understand what was going on here was — this one was from Mark Getty, Chairman of Getty Images: "[I]ntellectual property is the Oil of the 21st century," and somehow thinking about that — of course it might be true — but it is worrying because if you

know previous wars were fought about territory and access to fossil fuels and these kind of things, does that mean we're going to have a World War III based on intellectual property? I don't think so, but it's like a science-fiction Declaration of War. And the second one, of course, being this one, which was referred to before, that basically this is "lawyer speak" to me, that this is the way things work. "If value, then right." And another quote that I like, I forgot to write it in here, but the lawyers taught me that "products don't have freedom of speech," which is a quote that I like a lot too, which is from one of the lawyers.

Anyway, when we had issues with these exhibitions I showed before, we very much claimed our artistic freedom of speech rights which is partly, when you claim it as an artist, is based on the bourgeoisie notion of the artist and the world of arts as being something separate from the rest of the society and so forth; and we thought that's chickening-out a little bit. We have to take these issues to the place where the actual front lines are, and they are somehow within the market itself. So we turned part of our office in Copenhagen into a shop that would start to deal with products that had a complicated relationship to these issues. There would be a shop we would run ourselves, and this was at a point where — this is the invitation for the opening of the show (*Shows clip*). It's a great image because it's the Danish Prime Minister at this point, who was very good friends with George W. Bush, they went mountain biking together and stuff like that, and here they are on their way into Air Force One (*Shows picture*). And the Danes were really proud of this photo because we, as this small nation, and our Prime Minister gets to get a ride on the Air Force One. However, when this image was being highly circulated in the Danish media, suddenly something strange happened and it was very surprising. You can see the Danish First Lady, she's wearing a Louis Vuitton bag, and Louis Vuitton went out saying: "We did not make this bag, it's not a product of ours, it must be a copy." And this was at the same time as the Danish government was having this campaign against people buying copy-products. So basically when you were leaving Copenhagen airport going east, China, Southeast Asia, these kinds of places, then you would be handed these brochures that said, "If you are considering buying any of these copy products you are potentially supporting terrorism," because it's the terrorists who are running the show there, which it didn't quite fit with my experiences, and this somehow potential-terrorist-product was then able to penetrate Air Force One (*Laughter*) — seemed like an important image to show.

This shop had a quite confrontational, you could say, aura, and we were going for some confrontation as well. This is from a television-like commercial that we produced (*Shows clip*). But it was all very innocent in a way — handmade and symbolic — there was not anything of much value in there, but the symbolics were there. These are some of the products we would be selling (*Displayed on projector*): copy bags and this “stars n bucks” (coffee mugs); this is some of the images from the website that we chose to value and then copy as a slogan. There would be clothes, there would be lamps, there would be open-source software, sneakers, colas. This is Mecca-Cola (*Displayed on projector*). Maybe you’ve heard about that. At the beginning of the 2000s it became very popular in Europe. I don’t think it’s around anymore. I haven’t seen it for a while, but it became intensely popular and was made by this French-Moroccan journalist, actually, who came up with the idea in a polemic way, then it actually turned into a product. But what I think is interesting here, I mean he got a lot of heat for it — this is the man (*Shows slide*) — but he got a lot of heat for it from the conservative part of the Islamic world because combining “Mecca” with “cola” wasn’t something that — you would like — and he was this Moroccan-French journalist, little bit provocative and he would combine the cola imagery with pictures from the Intifada and things like that. And it had this slogan “The Taste of Freedom,” which I think is quite interesting, again referring to the quote from Madhavi’s book that, besides the obvious cola politics, here we also have this decision to retell the story of your own life, and that built into that desire; there’s this fundamental freedom aspect in the most American way of the word.

Anyway, a couple of years later we found ourselves in Brazil, and ended up doing this soft drink ourselves, and I’ll just briefly run you through the story of how this came about. This is in the Amazon, a part of Brazil where most people who make a living do it on the basis of Guaraná, which is a berry that has this energy like caffeine that is used in various kinds of soft drinks. Now what had happened in this part of the Amazon was that some of the producers of soft drinks had gotten together and created almost a monopoly on the purchase of the berry that has caused the price to go down some eighty percent, which of course was a big problem for a lot of these farmers. We were hanging out in this area and we started talking to them — this is one of the most famous of the Brazilian sodas (*Displays picture of Guaraná Antartica*), that you know was part of this conglomerate that was owned by the American Beverage Company — and somehow in the process of speaking about our own experiences, and what potentially could happen in such a situation, this idea came up that,

well, “Could the whole thing be somehow reversed?” Could you think that these companies are using your raw material? What if you turn it around and start using the companies as a raw material? And these companies’ raw material is, of course, their identity, their brands and so forth; so could you build a potential counter-product on the basis of this?

Then people started experimenting. These are farmers in the Amazon, they are not counter-culture artists from New York or something. It was a slow process getting to agree on something that a potential example could be made of; and inevitably we came up with this soft drink idea here (*Picture displayed on projector*), and we sort of copied the logo of this other soft drink that was owned by the American Beverage Company, but I’m not a soft drink producer so the way we tend to do these things is that we basically start building them ourselves as models, as examples, and in some time, somehow, it turns into more sustainable things; and we took this idea and presented it at the Venice Biennale in Italy. Basically this is like a Superflex Soft Drink Factory (*Picture displayed on projector*): it’s all handmade, and this is the soft drink (*Picture displayed on projector*).

However, later on we were showing the same project in a museum in Finland, the lawyer at the museum said, “No, we can’t do this here because some of our sponsors are Pepsi-Cola, and they are involved with the museum, they are involved in the American Beverage Company, and we don’t want to lose the sponsor.” And then we asked, “What could be done?” and she said, “Well, we have to censor your logo a little bit.” And then we asked, “How much?” and she was like “well,” and then she started drawing on our logo, and we were like, “Wow, this is cool, it actually is much better like this” (*Shows slide with black bar over brand logo*). So this is to pay respect to the creativity of lawyers, it became a really cool logo and it was much better than the counter-copy logo that we had come up with, and slowly the production line in these micro-factories, from the next level of things, became more and more complex and we decided, actually, maybe we can take this thing to the next step, but we need some more material. If we put this into real production we will need branding materials, we will need commercials, we will need all these things. So we went back to the Amazon and brought some of the new sodas with us, with this idea that we have to create something more to be able to brand this thing if it goes into production. And we didn’t have a big-television-commercial-TV thing with us, so we had to produce everything ourselves and came up with this idea: How about if the farmers tell their ideas of a potential commercial, but as the commercial itself. And everybody went home and came back the next

day and had invented this idea for the commercial, and I just am going to play two of them for you, I think they are really good and we used them a lot afterwards (*Shows two clips*).

Inevitably, it went into production, and this was actually at the same time — I mean into production in Denmark — we brought bags of this Guaraná back with us, and with people who know how to do these kind of things, and we actually created a taste and started producing it. And this was also at the same time as the other brand was moving into the European market, so this is a photo taken at a party (*Displays slide comparing shirts*), and suddenly there was our brand and the original hanging out. At this time there was the usual cease and desist letters from the American Beverage Company, and at that time we were getting quite, not professional, but we had tried it before so we knew, “Yeah yeah yeah, it’s just a lot of smoke,” and we can keep the process going for a couple of years and inevitably they’ll get tired of us or something, but the story was picked up by the media and suddenly we were in the news! This is the primetime Danish news (*Shows clip*), and they were speaking about it, and it was also from our point of view, like cynically. Not many companies are allowed to hang out at primetime news to speak about a product and consume their own product at the news.

And this was picked up by 7-Eleven, who then became our main distributor in Scandinavia, as you see here (*Shows slide*). And at this point the sales were going well, we created a foundation that now runs the project so there’s surplus [that] goes to the people in Brazil, and a decent price is paid for the raw material, as well, but it sits now within a foundation that is separate from us. So I’m going to wrap this project up with an image, that for me speaks a little bit about how difficult it is to be a citizen of capitalism, and this is an image from the newspaper where I saw it by coincidence, and it’s part of our customer clientele. These young radicals, who would go into 7-Eleven and buy the product and then whenever there’s a riot, which tends to happen in Scandinavia, the kids would buy the product in 7-Eleven. When there’s a riot the first thing you attack is 7-Eleven, so the bottles go back into 7-Eleven (*Laughter*).

Anyway, I’ll just wrap up the talk with the last project which was an attempt to do something right, and right in the sense that you avoid the legal circumstances which we were beginning to become quite tired of. We were teaching a course at the IT University in Copenhagen. I partly teach also. It’s a way to earn a living as well and I like it also. But we were teaching a course on copyright issues and since it was the IT University it was obvious to look at the history of the open-source movement and free software and things like that.

However, we have a background as visual artists, we like to also, as part of a research process, actually make things because we tend to communicate with things, as well, not just words and papers and things like that. I can't write almost, but anyways, it was somehow obvious to look at its history, and then there's this quote that I'm sure that you know, that: "[F]ree software' is a matter of liberty, not price. To understand the concept, you should think of 'free' as in 'free speech,' not as in 'free beer,'" from Richard Stallman. And this is Richard Stallman (*Picture displayed on projector*), and he's the godfather of the free software movement, and I think he thinks of himself also as the sort of pope of this in a way. But there was this quote by him, and we were dealing with students and there's this response from Linus Torvalds to the quote, and Linus is the guy who initiated the whole Linux operating system — Stallman's speaks about "free beer" and in the sense that it's "free' as in 'free speech' not as in 'free beer,'" and then Linus answers, "[B]ut I'm only interested in 'free beer.'"

So we took this as a cue somehow to produce free beer and basically try to take the valuable legal concept from the open-source movement and the free software movement, and to apply it to something from the old world. And beer was this pedagogical thing where we would make the beer that would have somehow the same qualities, and we gathered up with this guy who is like an old brewer, and we started producing beer in the school cafeteria — something like eighty liters. None of us had produced any beer before so it was very amateur, and part of the assignment from us was that the students should somehow create a website around it and a press release and things like that. So it was an attempt to tell a story and then learn to make beer. And then there was a Christmas party where we had finished everything and we drank all the beer. It wasn't very good. The students had sent out this press release and there was this one TV from Copenhagen that came which is called TV-Glad it means TV-Happy. It's run by people with disabilities, people with Down Syndrome, and other disabilities. I think they made a little piece about it or something, but then it somehow became viral and *BBC* started calling the students, and it just spread online, but in a hysteric way. *New York Times* and this is *Der Spiegel* (*Showing slides*) speaking about Osama bin Laden, Jamie Oliver, and "Free Beer."

And then *CNN* called as well, and they wanted to come to Copenhagen. And I was talking to them on the phone, and then they said, "Well, we're doing this feature on the history of open-source, and we'd like to visit you and try the beer." And I was like we're not producing the beer, it's something in the school, but they were like,

“that doesn’t matter, we’ll come out anyway.” And it turned out that after it, that they were doing the feature on this history of open-source and they were doing three examples, one of them being the operating system Linux, and the second being Wikipedia, and the third being Free Beer. And I was like “take it easy!” And then they were like, “Yeah, also we’d like to brew the beer as part of the feature.” Then they started brewing the beer, but it had somehow gone very wrong. We all know that sometimes journalists aren’t always the sharpest — as you say in Denmark, the fastest animals in the forest — and they had forgotten to put the valve on the keg, and it’s a process of fermentation and what had happened was that the thing blew up! And when something blows up at the office of *CNN*, this is at the *CNN* office in London, it creates a terrorist alarm. So they had this panic because of this production of beer. But we ran it as a classic open-source project so there would be a website with the recipes and the logo, and then people started reacting to it and producing the beer in different parts of the world and sending us samples of it that were all a little bit different, of course. This is an American version (*Showing slide*); this is a German version (*Showing another slide*); this is a Taiwanese version (*Showing another slide*); this is a Japanese version (*Showing another slide*); this is another Taiwanese version (*Showing another slide*); and a Brazilian version (*Showing another slide*). And this is an image of a couple various versions of the “Free Beer” (*Showing slides*).

So I think we should get on with the dessert, so I’ll wrap up with this image, thank you very much. (*Applause*).

Initial Speaker, Anupam Chander: Rasmus has kindly agreed to take a couple questions so if you want to ask him how to brew free beer, take home a Sol LeWitt, feel free to ask. Mark?

Q1: So two questions: One is, what’s notable about the free beer example is open source, everyone presumably modifies it to do whatever they want with it, but they almost seem to use both the same name and the same logo that you all released. That strikes me as interesting and I wonder what it says about the open-source movement, right we can all do it in whatever way we want, but we end up sort of branding it together into a single thing. The other question is, where did Clementine come from, who was first? Or is it really [an] independent invention?

Rasmus: Yeah, to be honest I’ll start with the last one: I don’t know, but you know I asked these gentlemen in the picture and they said,

“Yeah, this is a very old Arabic song, we’ve sung it for centuries.” So how the hell it got to the U.S., one possibility could be that five hundred years ago when part of Spain was Muslim, and inevitably when the Europeans started going West maybe they took the song with them. Because, I think it’s — well, Wikipedia says that it came through Mexico, so it came on the Spanish trail somehow and traveled up through California, but I have no idea; one should ask a music historian. I’m sure if you trace anything it’s going to pop up somewhere else, and this was known as the most famous American folk song and we just found it. It is also played a lot at the Dome of the Rock and the Al-Asqa Mosque with probably different lyrics (*Laughter*). And on the next one, the beer thing, there are examples of other people who started creating different iconography around it, but mainly most people stuck with this one which is kind of different as well (*Shows slide*), but yeah, I don’t know. You should ask the branding people here. I mean it’s probably a very tribal thing that you’re in it together somehow. So yeah, let’s ask the branding people.

Q2: Can you tell us something about your interactions with the lawyers in the context of the “cease and desist” letters? So how bad did it get?

Rasmus: All the legal advice that we have had in these various issues — and some of the legal advice was very needed also because in the Copy Shop in Copenhagen for example we had a “razia” basically like the authorities come, this is now technically, what is it called? A courtroom. And you know, “Please remove your hands from the keyboards,” and this was initiated by “Lacoste.” They had convinced a judge to do that and there was a truck outside of our office basically ready to pick up everything and drive away. And this was on the basis of copy Lacoste shirts, but not the one I showed you in the picture. But because we had kind of figured out that this wasn’t going to work, so we had pulled them away and in the communication we had with the Lacoste lawyers, we had had this Andy Warhol argument. They said you are different from Andy Warhol because he just made an image of something and you’re creating the real thing kind of, so as a reaction to that we had made a t-shirt with a print of somebody wearing the copy Lacoste shirt. So it’s a t-shirt like a normal t-shirt just an image with somebody wearing it. So we said, “that’s going to go,” because it’s an image and we thought, “They think Andy Warhol only did images and they were cool with that, so then this must be ok with them.” But they were not. So they came for it with a truck and a judge and basically you were handed this piece of paper that you

know, I don't know what it's called legally, but a paper that Lacoste has used to convince a judge to do the "razia," it was like thick you know, everything we had done for the last five years was documented. But they came for those t-shirts, but we only had two, so the judge was a little bit confused and sent off the truck. But I mean none of these cases ever went to court mainly for the reason that all of our legal advice told us that "you will lose, you will lose." And I would have loved to go to court with some of them, but it was a very pragmatic settlement that we can't afford it, and we were going to lose anyway, so it ended up with settlements, and we've had to pay money to pretty much everybody in the equation here, so, yeah, strategic withdrawal. So it never went all the way, you could say, if that answers your question.

Q3: So if you apply for a grant for an art piece do you add some budget for a settlement and other legal fees? (*Laughter*).

Rasmus: I don't think that would fly, but I think for several years half of our budget was legal fees like for everything we did. Lawyers tend to become expensive really fast (*Laughter*). And we had people, friends of mine, who are lawyers who would work with us pro bono — actually Madhavi and Anupam helped a lot also — but we also needed a law firm [to] represent us, so we would feed them with arguments, but they would represent us.

Madhavi Sunder: When the Copy Shop was trying to get rid of the goods, we got a shipment to our house in Davis.

Rasmus: Yup, we shipped the problem to you guys (*Laughter*).

Audience Member: If you see a truck show up outside of your house (*Laughter*).

Q4: Is Copy Shop still open?

Rasmus: Actually we closed it, and then there was some people in Knoxville that opened it and I think they ran it for a couple of years in Knoxville, Tennessee, but I don't think it's around anymore. But you are welcome to open it (*Laughter*). We actually created a whole manual on how to copy it, so there's a package and you can just take it.

Q5: Everything I know about Sol LeWitt's estate [is] that they are very draconian about copying. How did you get away with that one?

Rasmus: Well, of course, we were contacted by the Sol LeWitt estate, but we were prepared and Sol LeWitt has made notes about how he would like his work to be dealt with and on the basis of this we could argue for what we were doing, but we had some very sharp art historians and basically a legal lawyer to handle all of the communication with the estate. And then I think they sensed that there was some strength behind the argument so they said “okay, it’s okay,” but they came around of course.

Q6: So in your current art, after your experience legally, do you feel that has influenced your approach of how you select projects?

Rasmus: Well, I mean, I don’t enjoy having this letter conversation with lawyers anymore, with all due respect, because some of them went on for years and years, so I am still interested in the matters. But I tend to somehow want to avoid these issues now, and, for example, the film that you might have seen that has been running on some of the screens; we did a film called *Flooded McDonald’s*. We rebuilt a McDonald’s and flooded it, a sort of light Scandinavian version of the apocalypse. But of course we were nervous and it’s not a direct critique of McDonald’s or anything, but it uses their iconography heavily and most film work that we do we also release online, you can just download it if you want, but we didn’t do that with this one because the legal advice argued that the moment you take it out of the art context and throw it online, it’s a different technical setting and you might get into trouble by doing that. So I’m chickening a little bit out, you could say that, because it’s time-demanding, it’s expensive, and I think, you know, a new generation has to take over the front lines. I think I’ve done — or we’ve done — our duty, but it’s still important somehow to, I think, to challenge these notions.

Q7: Does it feel like a form of censorship?

Rasmus: No, I mean it’s not like you are going to shy away from something, but you make a compromise. For example, the politics of what you are releasing online by not doing it and that’s a strategic withdrawal you could say. McDonald’s is pretty big you know, you have to want to fight with them, and they can be hysteric, as well, but maybe fortunately they have had some really bad PR experiences with people that they went after — it came back to them in the version of bad press and that’s like one thing they want to avoid. So maybe they’re shying away as well.

Q8: “Quick [unintelligible] question”: How the hell did you come up with the brand “Superflex”? Did you ever receive a “cease and desist” on that brand? And if somebody else were to copy it would you send them a “cease and desist” letter as well? (*Laughter*).

Rasmus: I would love to try and send a “cease and desist” letter (*Laughter*). It’s a very generic name and there’s already lots of stuff out there, we picked the name twenty years ago or something because it’s something that could be anything and that seemed appropriate because we didn’t know what we were going to do. So I mean there’s like a Dutch sandpaper and others, a protein powder called “Superflex,” so, yeah, I don’t think the “cease and desist” would fly so — maybe? (*Laughter*).

Q9: Have you figured out the timeline between when you start copying a brand before where you actually have to stop or is it the point where [unintelligible].

Rasmus: It’s very different how fast they are, I don’t know, I mean I guess it just depends on if they find out at all. Sometimes it feels like the scene in the Matrix where these bots are searching all over for violations and sometimes you come under the radar, sometimes you don’t, but no, there’s no specific timeline, no, I don’t think so.

Q10: So is the “Power” soft drink still in manufacturing? And did the American Beverage Company just back down?

Rasmus: Yes.

Q11: And did the American Soft Drink Company just step down?

Rasmus: The logo I showed you got even more censored, so the black thing is a bit bigger now and then we had this text as part of, we did a settlement with the American Beverage Company and part of that settlement you know there were words that we used on our cover —

Audience Member: A disclaimer?

Rasmus: Yeah, well, they wanted because we were describing the set up in Brazil and the monopoly situation and “da-da-da,” and they didn’t want this word, they didn’t want this word, so we just blackened them out. So it’s a really weird logo with a lot of stuff blackened out as part of the settlement so we, I guess, we tried to use

the settlement somehow for our own benefit, but the soft drink is still in production. I mean it's a small scale thing, but it produces a little revenue and provides a decent price for a small group of people who, I mean we're not talking about the whole of the Amazon or something, it's a small group of people of maybe fifty farmers or something who also have other incomes. They are also basically running a soft drink production in Europe, which I think is quite nice.

Thank you. (*Applause*).