

METRO PICTURES

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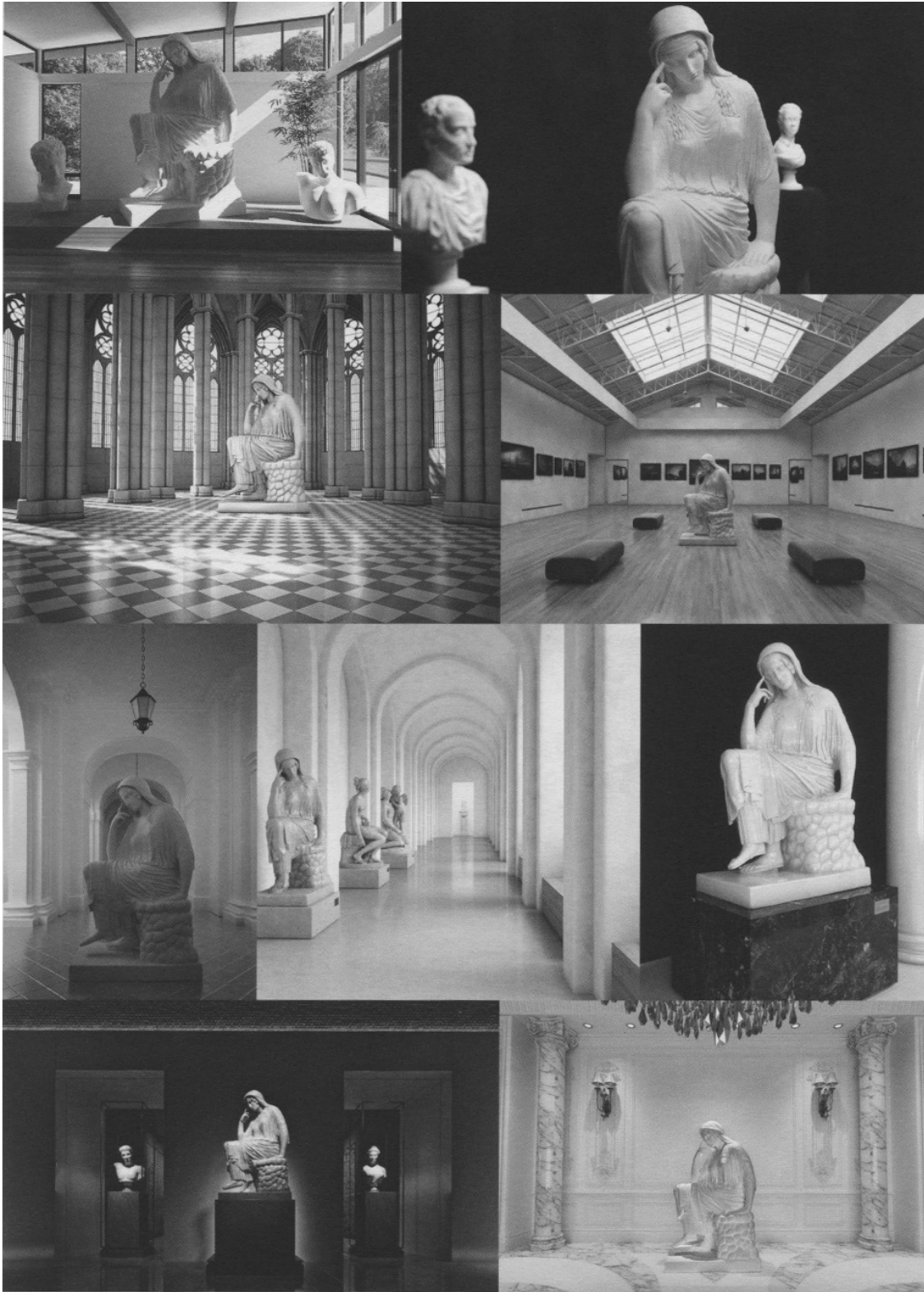
Conversation Thomas Demand and Oliver Laric

- TD One could argue that a contemporary notion of collage is scanning and replacing ideas and forms in contexts where the original wasn't intended to appear. That raises a number of issues about license and intellectual property, which are central for your practice, right?
- OL I've been 3D scanning objects since 2008, mostly from museum collections, and making them publicly available for anyone to download, free of copyright restrictions. As 3D scanning is a cost-intensive endeavor, the models offered freely quickly spread online and took on a life of their own, in many cases being downloaded over 100,000 times. The models end up in all types of environments, from virtual museums to two-dimensional renderings to the backdrop of the Eurovision contest 2015, where one of my scans had its biggest audience to date (at least that I'm aware of, as I only occasionally find out about the usage).
- TD You make a relatively big effort to obtain a 3D file for getting your work into the world, which is absurd in terms of classic collecting but follows the rules of marketing over the Internet: nothing is more attractive than a free download. By infusing classic sculpture into the system, you not only avoid trouble with copyrights but you also connect the two visually. Sounds easy!
- OL Yes, I thought reusing the opening show "Serial Classic" for "L'Image Volée" by doing a number of 3D scans. It seemed like a good fit: in my mind "Serial Classic" dealt with the mutability and democratic perception of sculpture, so continuing the argument the show established made sense to me. However, the reality of making this work happen was not as easy. I met strong skepticism from Fondazione Prada when I asked for permission to scan the sculptures, in particular since the outcome would have been free online distribution.
- TD For an institution like Fondazione Prada there's a difference between allowing scans of works from its own collection and scans of works which are on loan. The sculptures in "Serial Classic" were all on loan, and the foundation had to respect the loan agreements it made with lenders.
- OL I often encounter this kind of reservation. Many people in this field seem to be nervous about a general audience adding to the dialogue, even if it is perfectly legal. But besides that, I think there is a certain irony in a show dealing with the democratic nature of Greek art not being able to realize its democratic potential.
- TD For you, what exactly is the meaning of "democratic" in this? That it is free?
- OL I felt that the restrictions to the scanning I wanted required some alteration of the initial idea. I proposed making scans using a scanner that is not particularly precise, and will focus on captivating the whole, recreating it virtually as a whole and not as a 3D reproduction or dispersion.
- TD Is that because it would be illegal?

Oliver Laric
Penelope, 2016



Oliver Laric
Penelope, 2016



Oliver Laric
Penelope (renderings), 2016

- OL Not at all, I looked into the legal dimension of the situation to be sure that there are no obstacles. There is no Freedom of Panorama in Italy, but still, these artists died over 2,000 years ago, so legal restrictions limiting reproduction appear odd to me. Copyright economic rights could hardly be called into question, since the artists passed even long before the Berne Convention. Actually, the Berne settlement didn't even exist when they made the artworks! Perhaps moral rights could be cited in this case, namely the right of integrity provided by Articles 20 and 23 of Italian Copyright Law. After the author's death, the right to sue in order to prevent modifications that dishonor artworks lies with the author's heirs.
- Theoretically, a great-great-great-great-great-great-grandson or -daughter could take action. "If the public interest should so require," adds article 23(2). Claims based on the moral right of integrity could also be raised by the Italian Prime Minister. Does the public interest require this?
- TD You really dug deep into the legal workings of Italian intellectual property, it seems. Do you think that's part of your responsibility as an artist, or did you just find it fascinating?
- OL Unfortunately that's now part of my reality, but I'm also getting more and more interested in the history of these laws. Setting copyright aside, the Italian Code of Cultural and Landscape Heritage provides ancillary rights regarding classical art works owned or hosted by Italian public cultural institutions. Article 106 of the Code lays down the general principle that "the Ministry of Culture, regions and other public bodies may allow single requestors to use the cultural goods that they hand over for purposes compatible with the cultural destination of the aforementioned." Among these uses, Articles 107 and 108 of the Code continue, the Ministry of Culture, regions and other public bodies "may consent to the reproduction of those cultural goods that provide royalties and/or a lump sum" to be defined on the basis of the kind of use the copy will be involved in, and of the economic benefits that may provide the copier, while no consideration is given to personal reproduction or research purposes. Under Article 178 of Code, whoever reproduces a work without due authorization and for profit, or is in any case involved in the distribution of unauthorized reproductions in Italian territory may be convicted and sent to jail (from three months to four years) and fined (from 103 to 3,099 Euro). This amount can be higher if the unauthorized reproduction takes place as part of a commercial activity.
- TD I'm glad I've been warned...but this isn't applicable here, is it?
- OL Although in a recent case the Italian Supreme Court held that the notion of "reproduction" used in the Code is the same as that used in Copyright Law (the case involved the reproduction of a "cultural item" constituted by an ancient skull), this is not a copyright case. Indeed, the Code of Cultural and Landscape Heritage provides for a national ancillary right that could hardly be claimed against unauthorized reproductions that did not take place in Italy. The 3D scans would be hosted on my domain, threedscans.com, hosted by Domainfactory, a German web hosting company. The fact that the scans would be made available for downloading globally, and consequently in Italy,

would not necessarily amount to an act of reproduction in Italy, and the Code of Cultural and Landscape Heritage does not give Italian cultural institutions the right to prevent acts of making these items available to the public.

- TD That shows the limitations of territorial claims in copyright laws in modern economies. But don't 3D scans and their easy proliferation threaten all industries, not only the arts?
- OL The first prominent case of 3D scan copyright was indeed an infringement involving a scan between Meshwerks and Toyota. The car company hired Meshwerks through an advertising agency to digitize several of their cars, for a single commercial use. After repeatedly using the scans, Meshwerks took Toyota to court. As a defense, Toyota argued that Meshwerk's wire-frame models "lacked sufficient originality to be protected by copyright" because "any original expression found in Meshwerks' products was attributable to the Toyota designers who conceived the vehicle designs." The trial court agreed with Toyota and held that "the wire-framed models were merely copies of Toyota's products, not sufficiently original to warrant copyright protection." On appeal, the Tenth Circuit affirmed, concluding that "Meshwerks' models are not so much independent creations as (very good) copies of Toyota's vehicles." Therefore, viewed as merely copies, Meshwerk's wire-frames flunked the test of originality.
- TD So they lost the case. Can we state that the better the 3D file is in copying, the bigger the risk that the level of (re-)creation vanishes behind the source material? But let's come back to the arts, where such affinity to make a great copy is more appreciated. You got a pretty good 3D scan from another source, which was in the previous show: *Penelope*. A characteristic of the way you work is that you keep things in a flow, sending them out and waiting to see what comes back to you.
- OL While in Vienna late last year, I came across one of the statues from the show in the form of a plaster copy at the archaeological institute and was granted permission to scan. I now have scans of the statues in the show in higher resolution than the forensic scan from Milan. I even have the right to distribute these scans as I please. The statue in question is *Penelope*, from the Vatican Museum, aptly mentioned in the "Serial Classic" catalogue in an essay titled *Wandering Penelope*.
I posted an online rendering competition to render *Penelope* in a museum setting. The contest has produced 169 different renders so far. These will help me determine how I will render the other 3D scans, but this was also a way of spreading the one scan I'm currently allowed to publish. I'm assuming that some of the people who downloaded my scan will continue to use it for other purposes. *Penelope* will also be uploaded to various other 3D forums so that it continues to develop—and wander.



Oliver Laric
Penelope, 2016