



Essence, Identity, Signature: Tattoos and Cultural Property

STEPHEN PRITCHARD

This paper examines a range of problems centring on the theorization of cultural identity and cultural property by reference to debates about the appropriation of the Maori tattoo, or ta moko, and the authenticity of contemporary Maori tattooing practices. Through a consideration of the relationship between cultural identity and tattooing, and the question of whether tattooing is an effect of a specific identity or constitutive of that identity, it addresses the paradox inherent in attempts to protect indigenous, cultural and artefacts from (mis)appropriation: that is, that to re-articulate such non-Western cultural phenomena in terms amenable to their repositioning as property is precisely to render them meaningless or useless, in terms of their contextually specific uses and significance. Against the background of these issues, the use of ta moko as a form of signature or authorizing mark of identification is taken to highlight issues concerning the complex relationship between the attribution of certain cultural practices, characteristics or properties, to a certain group, and the notions of authorship and authority that underwrite such designations.

In a general discussion about tattooing and social reproduction, Alfred Gell suggests that:

As a technical means of modifying the body, tattooing made possible the realization of a particular type of 'subjection'... which, in turn, allowed for the elaboration and perpetuation of social and political relationships of certain distinct kinds ... Tattooing (and conversely non-tattooing where tattooing is expected and normal) is a very specific and recognizable way of modifying the body, and, via the body, reconstructing personhood according to the requirements of the social milieu. (1993: 3.)

Gell describes the way the tattoo marks both the division and the link between the body and culture. Read as either a sign of affiliation within a social order, or pathologized as an 'infantile', 'self-destructive' or 'oppositional' manifestation of the interface between the individual and society, the tattoo is often taken as a key to insights into identification and socialization. It marks the body; it inscribes, constructs, and invests it within a variety of psychical, cultural and political fields. It may well be, however, that to read the tattoo simply as a metaphor for the inscription of culture or society on the body, as an assignment, impression or shaping of external social and cultural contexts on individuals, is to obscure the

complexity of the line the tattoo marks. Taking Gell's concern with social and cultural reproduction as a starting point, one might argue that the tattoo reveals something about a site of production, not merely a process whereby individuals are 'individuated' or subjects 'subjected', but simultaneously the constitution of the subject in terms of culture, and of culture in terms of the subject, since the line the tattoo traces between the two is neither completely one nor the other. Insofar as it marks a distinction or point within a system of relations, the tattoo traces a precarious line between bodies, 'the corporeal' or 'the material', and systems of meaning, the understanding bodies or 'the incorporeal'; not merely a line or inscription that ties together and individuates subject and culture, but rather a marking or inscription that precedes and exceeds the individual act, event, 'thing' or idiom, insofar as it is meaningful, while not being reducible to a generalizable system of relations or terms, insofar as it is a specific mark that is irreducibly singular.

To this extent, and with reference to representations of non-Western tattooing in a variety of institutional and academic discourses, I will argue for the 'in-between-ness' of tattoos; for the fact that they are neither fully inside nor outside the body, neither purely one's own nor another's, but rather a kind of split between the individual and the general, the empirical and the structural. Through a consideration of the way these issues and questions play into a specific cultural-political field, that of the relation between Maori and non-Maori 'tattooing', in the context of debates concerning authenticity, authority and the protection of cultural and intellectual property, I will argue that rather than undermining notions of identity and 'property', this 'in-between-ness' sustains their possibility.

The inverted commas that frame the word 'tattooing' here indicate this difficult but, perhaps, necessary dependence upon a general term, which emerges the moment we bring together a variety of different practices under the one heading 'tattoo'. This difficulty is itself aligned with and related to our earlier concerns about the relationship between the singular, specific and particular, and a range of concepts or notions concerning a system or 'grammar' that necessarily transcend any particularities. The assumption of a particular 'marking' under some less specific genera thus raises significant questions about the grounds of identification. The point of this line of questioning is to illustrate the way debates, which have often been presented as matters of truth or knowledge, fail to consider how such terms give identity; it asks what opening or origin makes this type of truth possible.

Rather than dissociate the singular attribution from the essential generality of 'the name', the very idea seems to suggest an aporia between a particular 'thing', where the term 'thing' already betrays the singularity of that which it names, and the 'sense' it is given through its expression, explication or denotation. Thus, the problem, as I have outlined it, concerns the structure of the 'mark': the relationship between the essential abstraction of every common noun or name and the particular or individual 'thing' named; and the attribution of a 'property', both in the sense of ownership and an attribute or quality, and authority with respect to such 'property'. The introduction of the term 'property' may seem problematic, insofar as it imposes a particular concept or category upon something not 'properly' understood in this manner. However, thinking the conceptualization of 'markings' in terms of the

'properness' of property can be useful insofar as it inflects our discussion with a broad range of indigenous concerns, which establish a relationship between the dispossession, displacement and destruction of indigenous peoples and their cultures, and the representations which provided the justificatory foundation for such acts—in short, the violent reduction and translation of indigenous beliefs and interests into European derived categories or concepts. Moreover, the etymological and conceptual connection between questions concerning the possession or owning of property, property as quality, nature or disposition and the notion of 'properness', describes how the way in which the determination of a thing, such as a tattoo, identity or culture, might be understood in the context of discussions about identity and cultural politics, especially in the shadow of debates about essentialism. 'Given' 'properties', on the one hand, presuppose, as a condition of its possibility, a system of recognition or attribution, while on the other, they are something essential, in-itself or originary.

Regardless of whether the answer is essentialist or anti-essentialist, the question concerns the way a certain cluster of attributes is given as belonging together. How is it that someone or something can 'belong' to a culture? Putting aside, for the moment, the issue of how the definition of culture and identity become the chief stakes in this question, one cannot and should not assume that what counts as belonging in one culture corresponds to belonging in another. The question of who a 'tattoo' belongs to, or of the 'proper' place of a particular 'marking', is thus in no way a straightforward matter. Here, the alternative runs between the view that the 'tattoo' is the expression of a particular position, a distinctiveness that belongs to a particular person or persons, and that it necessarily exceeds a particular instance, belonging equally, in a sense, to determinations beyond a single site. The opposition foregrounds a problematic relation between a specific form of marking, *ta moko*, and what appears to be its general conditions of possibility, the possibility of its legitimate use and the possibility of its misuse or appropriation.

As I have shown, where tattoos have marked out cultural boundaries, as they do with distinctions between the Western and the non-Western practices or 'objects', it is relatively easy to see how these concerns feed into debates about essentialist and anti-essentialist conceptualizations of identity. The mark here, the tattoo, stands for a sort of difference that can either be thought of in relation to another, as that which is constituted through language, community, society or culture, or as that which is different in itself, as a distinctive and essential mark. Familiarity with these debates gives good reason for caution, since the positions designated 'essentialist' and 'anti-essentialist' are often cast so as to correspond to alleged differences between 'Western' and 'non-Western' interests and beliefs. And yet, there is good reason to suspect that things are far more complicated and complex than this reading suggests. While the corrective is in many ways necessary and important, the problem need not present itself as a choice between essentialism or anti-essentialism, or 'the West' and 'the-non-West'. Consider, for example, two concerns related to indigenous cultural practices. On the one hand, against the strict and limiting confines imposed upon the category 'indigenous' by 'preservationists', 'traditionalists' and conservative scholars of anthropology and history, some assert

the need to recognize the legitimacy and creativity of indigenous expressions, practices and beliefs, as re-positioned, re-articulated or re-formulated within 'the contemporary'. For example, Bill McKay suggests that, in the case of questions about the identity of Maori art, the association of 'Maori-ness' with the past, with that which is to be distinguished and defined against all things non-Maori, fails to reflect Maori beliefs or interests:

Pakeha [European/New Zealander derived] definitions polarised debate, trapping Maori into western constructs involving notions of authenticity such as the absence of change in 'traditional' cultures ... [this framework has] allowed no place for risk and response to changing circumstances. (McKay 1996: 24.)

Proponents of this position tend to argue for a conception of culture that is permeable, transformative, dynamic and creative. Indeed, such a conception of culture seems essential if it is to be relevant and meaningful within the current context. Moreover, as Peter Shand has noted, notions of Maori art based upon normative definitions of the 'traditional' or the 'authentic' run the 'risk of introducing a prescriptive element into Maori art' (1998: 38). This observation has led to considerable criticism of legal and legislative approaches to indigenous property. Cecilia O'Brien, for example, has cautioned that '[o]ne must be certain that heritage legislation does not exclude "the use by indigenous people of items which in their view are part of their life".' (1997: 71).

On the other hand, there is a need to protect indigenous cultural and intellectual property from improper use and appropriation. This would require a notion of culture as definable, manageable and policeable. The problem is that the legal and legislative mechanisms in place for the protection of indigenous property generally require and assume a fixed, already given and accepted notion of what is or has been, thus privileging the past over 'the contemporary', or 'the modern', and placing authority with institutional bodies that are not indigenous or even under the direction of indigenous people, concepts or beliefs. Here, the central concern for either position relates to the identification of what is indigenous, but one argues for the necessity of transgression, growth and incorporation, while the other seeks to prohibit and protect against the 'traffic' between cultures. Thus, while these concerns are undoubtedly related, with respect to their concern about indigenous empowerment and self-determination, they appear to move in opposite directions with respect to the way culture or identity is defined in a variety of contexts.

This opposition not only parallels the more theoretical opposition already outlined between essentialism and anti-essentialism—insofar as in one instance, culture seems to be defined as autonomous and self-defining, in the other, as structured within a system of relations—it also reveals what Gayatri Chakravorty Spivak has called 'the unavoidable usefulness of something that is very dangerous' (1994: 156). To be more specific, on the one hand, we have a position that seems to allow for the possibility of dynamic change and growth, and yet is able, at least formally, to distinguish between indigenous and non-indigenous in 'border-line cases', between Europeanized-indigenous objects and indigenized-European objects. On the other,

we have a position that provides the basis for clear definition of what is or is not 'indigenous', but in doing so severely restricts and limits the scope and territory of indigeneity, and disadvantages indigenous peoples within 'non-traditional' contexts, in the present. This paper takes the consideration of some of these concerns, in reference to a variety of debates relating to representation of 'the Maori tattoo' and the definition of 'Maori-ness' within legal and anthropological discourses, as a way into a broader debate about the theorization of identity and cultural boundaries.

Despite the attempts of anthropological and historical studies to delimit and define the object or practice of 'Maori tattooing' or *ta moko*, the practices themselves often seem to defy clear and unproblematic categorization and classification. In many cases, boundaries were constructed according to preconceived notions of 'Maori-ness' or 'primitiveness', with little if any attention to the complexity of the practices themselves. As Rangihiroa Panoho argues: '[t]here is a whole under-exposed history of innovative and aggressive Maori adoptions of Pakeha forms, design, technology and materials, particularly from the nineteenth century' (1992: 124). Some explanation for this tendency may be found in the fact that, since cultural identities are defined in terms of their differences, 'the traditional' tended to be defined as that which appeared unmarked by European influence and contact. And yet, because definitions are cast in these terms, 'traditional' practices are always already marked by their opposites, or by the system in which they are 'positioned'. This is, of course, not an argument against the primacy of 'the indigenous' within such a determination, and in no way disputes their legitimacy or connection to practices and beliefs existing prior to or independently of European contact or influences. My concern here is not to reveal the 'true' nature of such beliefs or practices, with the articulation and circulation of the 'authentic' or 'the Maori' 'within the true', as Foucault might say, in contexts that are not entirely Maori, never purely a matter of 'internal relations' and not only indigenous, but rather a matter between what is and what is not a definition that, by necessity, involves another (see Durie 1998).

As for cultural boundaries, it is particularly interesting to note how *ta moko* was identified as 'Maori' within colonial representations, a term that functioned as both a name and an adjective: at times it denoted and marked out a distinctive racial or cultural category or group of people, while at others it named a particular mode or style, a way of living or behaving, within a particular context. It may be because of this double-sense of the term 'Maori', along with the conceptualization of 'Maori' in terms of an evolutionary continuum, that it became possible for practices such as *ta moko* to performatively articulate identity rather than merely express or reflect it. Thus, while Maori 'became' increasingly 'Europeanized', wearing European clothes, using European tools, implements and weapons, and adopting European laws and beliefs, there was, to a certain extent, a 'Maorization' of things European. This was not restricted to the re-territorialization of objects: so-called *moko* found its way onto the bodies of those once deemed 'European', runaway sailors, beachcombers, traders and adventurers, who 'became' native. Despite the tendencies of early scholars to emphasize the distinctiveness of Maori culture and, more particularly, *moko*, the line that divided 'the European' from 'the Maori' could be crossed in both

directions. Consider, for example, the cases of Barnet Burns and Fredric Manning. Burns, a 'once English' trader, was captured by a group of Maori and tattooed because they believed that such a marking would create an unbreakable, sacred link between himself and the tribe: 'it was ... to make sure I stop along with them, bring them trade, fight for them, and in every way make myself their friend' (1844: 9). As a result of this 'initiation', his appearance and the manner in which he had lived for the remainder of his time in New Zealand, his narrative is told, not from the position of a once captive Englishman, but from that of 'a New Zealand Chief'. Similarly, Fredric Manning, an early European settler who had 'taken' to the Maori way of life, published his account of early New Zealand society and settlement in Old New Zealand anonymously as 'by a Pakeha Maori' (1964).

While these claims cannot be taken as unproblematic insofar as they reflect European notions about the nature of culture and identification, they tie together the notion of transgression and cultural appropriation in a manner that makes it difficult to calculate loss or gain in any clear or simple way. Considering the case of such tattooed 'Europeans', Nicholas Thomas observes:

tattooing transposed to a white man's face became diagnostic of the condition of the so-called Pakeha Maori, or white Maori, the resident castaway or indigenised settler, who personified the flotsam and jetsam of the colonial Pacific. These are awkward terms for an awkward condition, a condition understood by various obscure nineteenth-century beach-combers, and most recently by the character Baines in the film *The Piano*, as marked by both cultural loss and gain. Or, if cultural markings aren't quite or aren't just a set of owned and disowned things, perhaps they present neither gain nor loss. (1995: 93.)

Here, then, between the rhetoric of loss and gain, we find the difficulty of understanding the dynamics of identification, appropriation and dispossession throughout colonization and settlement. If one accepts that European contact significantly changed the meanings of things 'Maori', how is it possible to define *moko* as something identifiably Maori, as property able to be protected, without defining it a way that articulates 'Maori-ness' against 'European-ness' and, as a result, significantly reduces and closes off possible identifications and articulations of 'Maori-ness', in a manner relevant to contemporary Maori, some of whom know little about 'pre-contact' culture? Phrased in another way, how might one simultaneously acknowledge the destruction and loss caused by colonization, affirm a relation with the past, with tradition, but also affirm creative, legitimate gains within the present when the 'authentic' and 'legitimate' is so often firmly positioned as 'past', a 'before' to much of what defines the terms of both 'today' and the future?

Consider, for example, Simon During's description of 'contact':

Postcolonial identity politics tends towards paradox and irresolution because, with the coming of Europeans, the narratives, signifiers and practices available to articulate the needs and wants of the colonised are at once inscribed within Eurocentric modernity. Thus, the moment of arrival

opens out in a scene of forgetting and misrecognition. Crucial signifiers of precolonial Maori language soon began to lose their meaning, because they depended for their sense upon practices that were disrupted by European settlement. There is now no consensus as to what certain words 'mean'. (1989: 764.)

The significance of the distinction between the pre-colonial and the colonial is in some respects obviously justified here; there can be no denying that contact would have changed things considerably or that colonialism was very destructive in many respects. And yet, one must question the way During's description characterizes contact so overwhelmingly in terms of Maori loss and European gain. It may be true that European contact significantly altered the meaning of all things Maori, as the shift in the meaning of the word 'Maori' itself demonstrates: meaning 'normal' before contact, from the time Europeans arrived, it began to function as a term for the indigenous population or *tangata whenua* as distinct from others (see Durie 1998). However, there seems good reason to doubt both the instantaneous-ness of any change in meaning, and the relation of loss and gain During (1989) implies, as if 'signifiers' began to 'lose their meaning' before a blow was struck, before negotiation or communication, before property was taken, before any physical or material imposition, as if the mere appearance of the Europeans was sufficient to bring about the beginning of the end, as if European modernity unfolded like a homogenizing blanket that smothered and radically reconfigured the axes of identification and meaning. The effect of construing the relation between European and Maori thus is to subsume all Maori actions and beliefs after contact within the tide of Europeanization, as if there could be no identity, no agency, from then on which was not already Europeanized. As Thomas has noted, this tendency to view colonization as a one-way process, with Europeans as the active agents who bring the indigenous, the passive victims, into modernity, marginalizes those who:

Must negotiate identities in urban contexts, with non-traditional social relations, institutions, jobs and ... is [therefore] inappropriate in so far as it is strongly associated with the past, rather than the contemporary circumstances within which they, like everyone else, have to operate. (1994: 196.)

Such a view seems to place far too great an emphasis on a division derived from 'contact', between the (pure) precolonial and the (impure) colonial and, as Thomas notes, while the idea that identities are articulated relationally 'must be true as a universal proposition':

It is evidently not true that indigenous peoples, or any others, need constantly to express their identities in relation to colonizers rather than each other, or in relation to other indigenous peoples or nonindigenous peoples other than the colonizers. (1997: 13.)

In a sense, During's position favours a 'Rousseauian' nostalgia, a mournful preoccupation with loss over an affirmative assertion of life, incorporation and growth; a preference for a determination of identity that is never locatable and always deferred, rather than a positivity that finds its difference, initially, at least in-itself. As Panoho

has argued in the context of debates about change in indigenous art: ‘Te ao Maori—the Maori world—has always been in a state of flux; the boundaries between Maori and Pakeha art and culture have always been transmutable’ (1992: 124). With reference to Gisbourne chief Raharuhi Rukupo’s innovative style and use of steel chisels, in the carving of the meeting house Te Hau ki Tauranga in 1842, and the appropriation of Catholic symbols within meeting houses under the supervision and influence of Te Kooti in the 1870s and 1880s, Panaho goes on to note that:

Te Kooti’s late nineteenth-century meeting houses, like Rukupo’s, reflect a strong sense of Maori identity and reveal an openness to aspects of Western culture which helped make sense of a changing world. These houses were built in a time when the Pakeha believed the Maori to be a dying race. But in contrast to this pessimism, Rongopai (Waituhi, 1887) and Tokanganui o Noho (Te Kuiti, 1873) meeting houses ... abound with innovative appropriations and present a Maori culture alive and bubbling with creative energy. (1992: 125.)

It is useful here to reconsider the prevalence of the sort of incommensurable opposition between the ‘primitive’ or ‘the native’ and ‘the modern’ or ‘the civilized’, implied by Derrida, in terms of the way ‘the authentic’ functions. While it may be granted that the pre-modern and the modern are often taken as mutually constitutive, and thus ultimately problematic, rather than ‘given’, nevertheless, one must wonder about the implications of this distinction insofar as it often translates into a distinction or opposition between the indigenous and the non-indigenous, marking a kind of incongruity between performances of indigeneity and the contemporary, and therefore placing severe limitations on the possibilities of expression, performance or the re-positioning of the indigenous in the contemporary context.

Even an approach that would treat Maori culture as a construction articulated against European culture would perhaps fail to recognize the structures of authority which would validate its own ‘take’ on the truth of culture and the metaphysical presumptions this entails. The denial of difference is no less metaphysical than its uncritical acceptance, and locating the source of the determination of culture or identity within the realm of ‘the cultural’ or ‘the social’ seems as problematic as biological or racial theories. In 1989, Alan Hanson, an American anthropologist, proposed that ‘[t]he invention of Maori culture has been going on for more than a century, taking at least two distinct forms in that time’ (1989: 890). Hanson’s point is that ‘traditional culture’ is an invention constructed for contemporary purposes ‘which proposes a stable heritage handed on from the past’ (890). The point is not the simple recognition of the fact that traditions, like all cultural forms, must re-articulate and re-contextualize themselves, but that ‘the Maori tradition that Maoritanga invents is one that contrasts with Pakeha culture, and particularly with those elements of Pakeha culture that are least attractive’ (1989: 894).

In the context of cultural politics in Aotearoa, New Zealand, this thesis was translated into the charge that Maori culture was inauthentic and Maori claims often fabricated to suit their own needs. While pointing out the obvious, in terms of the fact that culture is invented, Hanson thus grossly over-emphasizes the

freedom of such invention, articulating his argument in a manner insensitive to current debates, which reduces Maori culture to an oppositional articulation to the Pakeha. The privileging of that which is articulated through such a relation is itself highlighted by the curious manner in which he frames his debate historically. If all culture is invention, one might ask: why does he limit the date of invention to the last 100 years? Assuming he would not accept the notion of pre-contact authenticity, the only answer would seem to be that Maori 'came into being' with European contact and settlement. While this may be true as a general proposition, since Maori-ness as it is known today only became possible once settlers created the conditions of pan-tribal identification, to assume that the entire content of such identification is a mirror image of European society and culture ultimately places the determination of Maori identity with European contact, settlement and colonization. This notion of Maori culture as reactive conflates external and internal relations of identity, difference-to-another and difference-in-itself, and, in doing so, reduces all cultural difference to a 'plane of similarity' or an already assumed ground of identity.

There is no simple or safe approach here. The affirmation of identity and culture as positive, as self-defining or self-differentiating, risks uncritically accepting the terms in which identity or culture are given through a conflation of re-presentation and representation, while the characterization of colonization in terms of a kind of trafficking or exchange between cultures means that matters of ownership, authenticity and authority become difficult to determine. For, while hybridization may seem to open up and undermine particular identities, as it reveals their 'purity' to be fictional, as Ernesto Laclau observes, 'if the particularity asserts itself as mere particularity, in a purely differential relation with other particularities, it is sanctioning the status quo in the relation of power between the groups' (1996: 27).

In the context of copyright or cultural and intellectual property law, both positions seem problematic, although for obviously different reasons. The notion of a shared, entangled trajectory of culture makes it virtually impossible to establish ownership, let alone protect property, while the notion of culture as clearly definable and policeable seems biased toward 'accepted' definitions and categories, 'what has been' rather than 'what is' or 'what could be'. Moreover, as many have noted, legal definitions tend to characterize 'property' in a manner that failed to recognize Maori beliefs, practices and concerns, especially so far as cultural property is concerned. Here, we find again what might be called a politics of translation, within the context of law, a matter of the problematic relationship between an apparently indigenous 'object' and its translation into European-derived legal terms. As Shand has pointed out: 'the acts and common law reflect the normative positions of Euro-centric intellectual property law, which is to say they are focused on individual rights and interests' (1998: 17).

The demise of traditional tattooing practices by Maori in the middle of the nineteenth century occurs simultaneously with its 'revival' among Europeans. Taken initially as a marking that defined cultural boundaries, the tattoo was 'taken'—first, literally on the bodies and body parts of natives, and then, later, transposed on the bodies of Europeans themselves. In the first instance, the tattoo was received as an

item of curiosity and anthropological interest; in the second, as a marking of opposition to 'civilized' modernity. This suggests, initially at least, two sets of connections: one between the opposition to tattooing by Europeans and its later appropriation; and; on the other hand; between all that Europeans had invested in the tattoo as a sign, and its later value and potency as a sign of Maori revival and sovereignty.

Here, two observations can be made. The recent revival of 'primitive' tattooing in North America, Europe and elsewhere demonstrates how the tattoo continues to be 'taken' as a sign or expression of primitivism par excellence. The term given to this, 'modern primitives', reveals the way in which the assumed division between 'the modern' and the 'primitive' forms the primary axis of identification. As Peter Lentini points out:

the term modern primitives refers to individuals who, in the midst of rapid industrial and technological change and the insecurities of modernity (such as unemployment, spatial dislocation, urbanisation and its subsequent alienation), challenge western philosophy's notions of faith in scientific, rational and profit-driven progress ... (1998: 18.)

Thus, if European modernity is positioned as 'good', then manifestations of its opposite 'primitivism' are taken as 'bad'. If European modernity is taken to be 'bad', then its opposite is taken to be 'good'. The key point here is that the tattoo, or more precisely certain 'forms' of tattoo, are appropriated and reduced to an assumed relation to 'the West'. In this way, the tattoo gains its power as a sign of opposition to Eurocentricism and modernity through its initial signification as that which opposed 'European Civilization'. Indeed, this reveals some of the complexity of distinguishing between early and later 'uses' of *moko*, insofar as contemporary *moko* seems very much inflected by this sense of its oppositional power. In this sense, the capacity of *moko* to stand as an assertion of Maori sovereignty and authority seems to be a form or mark of identification that is, to use a Derridean phrase, already 'counter-signed' by 'European modernity'.

The scene of exchange, of the transference of the tattoo and the alteration of the meaning it implies, of its translation, re-definition or re-positioning within another context, in terms of another law and different configurations of power, describes how interpretation, knowledge, use and appropriation are here intertwined. Thinking of the different and yet interrelated economies of meaning and value, how could one doubt that the appropriation of *moko* is itself premised upon the failure and/or impossibility of reading it in its specificity, as attached to a part of a particular body? Despite the distinctiveness of *moko* or the recognition that its marks were taken to be irreducibly singular by Maori, is it not the abstraction of the *moko* as mere design or marking, as tattoo-in-general, the mark of 'the primitive' or 'Maori-ness', that enables its removal from specific bodies, just as the aestheticization of *moko* provided the grounds for its contemplation as something apart from the body, in disregard of the bond that tied together body and marking as signature and signatory? Kant took this approach, holding that the appreciation of the true and free beauty of such 'designs' was only possible once distanced from its context, relieved of the burden

of 'means' and taken as an end in itself. As he observes: '[a] figure might be beautiful with all the flourishes and light but regular lines, as is done by the New Zealanders with their tattooing, were we dealing with anything but the figure of the human being' (Kant 1911: 73). Indeed, such abstraction, re-contextualization or appropriation occurred on a remarkable scale. While anthropologists like Buckland and Tregear described *moko* as 'ornamentation', 'personal adornment' (Buckland 1887: 319) or a debased form of graphics (Tregear 1890), the extensive and wide circulation of images of *moko* brought with it a broad range of appropriations. As Thomas notes in reference to appropriation of *kowhaiwhai* and *koru* 'patterns' from an engraving Maori man with *moko*, 'the head of a New Zealander' by Sydney Parkinson: '[t]he involuted "spirals" and "scroll[s]" figure in the engraving which is probably the single most extensively reproduced image from the entire visual archive of eighteenth-century exploration' (Thomas 1995: 93).

These appropriations are based on the denial or effacement of difference along with the corresponding assumption of some universal ground of contemplation, meaning and abstraction. It would seem that copyright, intellectual and cultural property law is also blind to such differences: just as the appropriation fails to consider the authority invested in the binding of *moko* to body, so too does current law recognize the object or practice only insofar as it is recognized by the law, in terms of its universalizable principles and, further, refuses to acknowledge the authority that would prohibit appropriation or misuse in Maori terms.

We need to stress the relationship between the imposition of European beliefs about Maori and the question of authority that the imposition conceals. Thinking about the meaning or place of *moko* or Maori tattoo, one might ask how it is possible for a 'tattoo' to stand for someone or something without being separable from them. Does the functioning of *moko* as signature not suggest that the motif is necessarily separable from the individual or collective to the extent that it can stand in their absence? For, if abstraction here enables appropriation, it also seems to enable signification generally. Indeed, one might argue that the possibility of recognition, communication and signification seems tied to the possibility, indeed, necessity, of forgery, appropriation and mis-recognition. In more precise terms, this problem ties together the question of what can be 'Maori' and what it can 'represent' or 're-present'. Representations determine both what can count as an instance of that which is re-presented and consolidate relations of power and authority by assuming the position of representor through such an act. In the context of Aotearoa, New Zealand, for example, it might be useful to think of the re-articulation, development or influence of Maori culture in a variety of non-traditional places, contexts, or media, and the questions that might always be asked: whether this thing, act or person is actually 'Maori' and whether they are truly representative of Maori. One might think, also, of the signatures of Maori on deeds and treaties such as *Te tiriti o Waitangi* or the Treaty of Waitangi, and the variety of things these signatures are taken to mean or authorize. Indeed, the analogy made between *moko* and signature has some historical basis, as Michael King observes:

Many nineteenth-century chiefs chose to sign documents such as land

deeds and the Treaty of Waitangi with their *moko* in preference to a signature so as to increase the tapu of the document. (1978: 14.)

The signature is also a useful metaphor for the further consideration of the relationship between the possibility of protection, delimitation, development and circulation with respect to cultural boundaries, identities and property. One should note that the term signature can mean either a mark or sign that stands for something or someone in their absence and, as in science and forensics, a distinctive identifying marking or characteristic. In the first sense, then, it can be something which derives from some structure or system and is non-essential, while in the second, it is 'the essential' aspect of identity. These two meanings offer paths into either side of the essentialism/anti-essentialism debate. When one sees tattoos or *moko* in a context that is not 'traditional', for example, the answer to the question 'whose signature is this?' could refer either to contextual, social or cultural determinants, or to 'proper' and stable 'essences': blood, race, ethnicity, etc.

Is it not the case that such tattoos, as they appear today, tend to be most prominent at the borders of culture, as a kind of marking or articulation ultimately shaped and motivated by inter-cultural politics? Might not this sort of 'in-betweenness' also be symptomatic of a type of splitting and intertwining of the Maori/non-Maori divide? Might we not say that either side of such oppositions constitute themselves in relation to the other, such that the tattooed line, as the limit, is ultimately undone; an incision 'in-between' through which the other and the self bleed together? Perhaps the answer is, as Lacan observes, that, apart from its apparent erotic function, '[t]he tattoo ... has the function of being for the Other, of situating the subject in it, marking his [sic] place in the field of the group's relations, between each individual and all the others' (1979: 206). As Grosz has noted:

[p]aradoxically, the signature is the possibility of the infinite repetition of what is unique and irreplaceable. 'The drama that activates and constructs every signature is this insistent, unwearying, potentially infinitive repetition of something that remains, everytime, irreplaceable.' "... The signature is not self-contained and given, cannot be a presence-to-itself, for it always requires a counter-signature, a reception, an other to sign for it. (1995: 13–14.)

Once one considers both the possibility and impossibility of reversing the relationship between representation and reality, both the creative potential in representation, the way in which it performatively brings into being that which it represents, and its dependence upon some recognition, some system or code by which it can be recognized as that which must already be, then one begins to see how representation both opens possibilities and closes them down, how it secures and destabilizes authority. In this context, we must ask what it is that authorizes such a signing. Here, we strike a paradox: representation may be constitutive, in the sense that it can performatively constitute that which it re-presents and, in so doing, effectively determine the range of possible identifications. And yet, such representation of a particular identity, object or practice must always be recognized as that identity,

object or practice, must be re-cognized as a re-presentation, thus implying something always-already before, something that is repeated and repeatable. One would not want to assume that the structure of the signature and the manner in which it is recognized, legitimated or authorized is the same within Maori and non-Maori contexts. But again, perhaps the way this admission sits uneasily with my general thesis concerning the notion of a Maori or non-Maori context offers some further possibilities, such as the articulation of Maori law, of *mana* (authority, power or prestige), *tapu* (the holy, sacred or prohibited), *tikanga* (procedure, custom or method), as law. For, it is surely the opposite, European law articulated as universal law, which has justified and maintained the dispossession and displacement of Maori authority in Aotearoa.

Perhaps the most pervasive model through which the development and relationship of Western and non-Western tattooing is conceptualized, is that of economy and exchange. Here, particular signs, like tattoos, circulate within a particular system, signifying certain social and cultural relations, beliefs and interests. The meaning of such a sign, as 'marking-in-general', would be determined by establishing its function or value within a given system, while its operation within a cross-cultural or inter-cultural situation would be understood in terms of the ways such signs are re-signified. In other words, we would come to understand a particular 'sign' in terms of its use within a system, structure or economy. Against the exchangeist model, Deleuze and Guattari offer a reading of society and bodily inscription in terms of the 'primitive socius':

We see no reason ... for accepting the postulate that underlies exchangeist notions of society; society is not first of all a milieu for exchange where the essential would be to circulate or to cause to circulate, but rather a socius of inscription where the essential thing is to mark or be marked. There is circulation only if inscription requires or permits it. (1983: 1430.)

The significance of this point for my discussion of *moko* is two-fold. First, rather than assume that such markings are readily translatable or subsumable within some larger category like 'tattoo', 'graphics' or 'writing', that they are separable from the bodies on which they are inscribed, Deleuze and Guattari suggest that such inscriptions mark an attachment to the earth and to others, not in terms of exchange, but as an assemblage or coupling. 'Primitive' signs would thus be 'embedded' in situations, not fully separable from bodies, specific planes, rituals, gestures and beliefs, yet not entirely fixed in their relationship to one another. The inscription, then, encodes and marks the individual within a system and in doing so determines the terms of economy. Simple appropriation, therefore, would take the thing—the mark—only in terms of its denotational value, while failing to observe its multiple connotations and efficacious power, its embeddedness. Second, and in a related way, the translation of such marking into the more general terms of signification would be, in a sense, a violent reduction or imposition that assumes such terms at the expense of the singularity of the mark.

The point might be, then, that any assumed ground which would make *moko* translatable and transferable would represent difference at its own expense. To

recognize it is to re-cognize it as that which it is not, to take it and re-territorialize it in a manner which necessarily effaces specific relations that gave it meaning or ‘belonging’ within indigenous culture. To see *moko* in terms of the exchange model of loss and gain might already, therefore, assume a type of general inscription of value or meaning—to take the marking as something that falls under a genera that unites Western and non-Western graphics. The problem, therefore, is that the assumption of some ground of exchange, translation or circulation involves a violent reduction or effacement of the singularity of a particular idiom, marking or act. However, such reduction, such separation and abstraction of the mark from the context in which it is ‘embedded’, seems to be what makes the mark able to be recognizable as a mark of ‘such and such’, and thus function as a signifier. In other words, the general terms of economy and exchange that reduce difference to difference within the system of economy make ‘meaning’ possible. As Derrida has argued with the case of ‘writing’:

The possibility of repeating and thus of identifying the marks is implicit in every code, making it into a network [une grille] that is communicable, transmittable, decipherable, iterable for a third [not just for sender and receiver], and hence for every possible user in general. To be what it is, all writing must, therefore, be capable of functioning in the radical absence of every empirically determined receiver in general ... the possibility of the ‘death’ of the receiver inscribed in the structure of the mark [...]. (1988: 8.)

And yet, it is the trace of this irreducible singularity, the mark of the excluded difference, that opens the structure of exchange, signification and meaning to the line of ethical and political questioning I am interested in here. The assumed generality, that founds the possibility of exchange and circulation, masks and effaces the specific historical and empirical conditions under which a particular event or mark is given within the terms of the system. For example, formally or structurally, there may be no way to differentiate between different manifestations of ‘Maoriness’ within the contemporary context. An important point here is that the ambiguous category of the ‘newly traditional’ can be used to describe a whole range of objects and identities, from the Europeanization of things Maori to the ‘Maori-ization’ of things European. As During notes:

Here what is ‘new’ in the ‘newly traditional’ is a struggle against injustice and loss that continue into the postcultural era where inequities in employment, health and education continue to be linked to racial difference. (1989: 769.)

By situating the notion of authenticity within the socio-historical context of colonialism, During provides us with some way of differentiating between European appropriations of ‘the Maori’ and Maori appropriations of ‘the European’, and for arguing that the relationship between Maori to Pakeha and Pakeha to Maori need not be taken to be mutually translatable, symmetrical or reciprocal. He continues: ‘to place them together under terms like the “newly traditional” is to pass over what

distinguishes them' (1989: 770). And yet, such difference could only ever be expressed in terms that exceed the specific instances concerned; it would always be a difference in relation to another. This impossibility of representing the difference that counts marks the possibility of ethics or justice; the recognition that representation is always inadequate to this task makes possible a relation to another person, group, language or system of law which is ethical.

This finds an interesting parallel in recent thought in the field of cultural and intellectual property rights, where Maori claims are typically expressed in terms of European-derived concepts. The challenge in such thinking arises not from an attempt to find provision within the existing structures and concepts of law for indigenous rights, but from an exposition of the law's narrow Eurocentric base. A central point here is that the translation of Maori concepts and beliefs into European categories and terms of law is inseparable from the establishment and consolidation of colonial hegemony. Arguing against conventional conceptualizations of property, which emphasize individual ownership and alienability, Shand insists that:

For Maori ... [the] embracing sense of culture is guided by the concepts of mauri [life force] and wairoa [spirit] which together inform all meaningful forms or human occupation-art and design included. The result of this is that, in the wider world view, no individual can lay claim to specific things which are more properly 'owned', which is to say held in trust for future generations, by the iwi [tribe], hapu [subtribe] or whanau [extended family]. (1998: 12.)

The translation of the relationship of things Maori into Eurocentric notions of property thus becomes 'part and parcel' of the denigration and destruction of Maori cultural practices. Indeed, Shand goes on to argue that 'a loss of cultural sovereignty, whether through an inability to practice, the influx of imitations or through the adoption of formal modes of expression by outsiders, is akin to an act of epistemic violence' (1998: 42). The point of this observation is to underline the possibility that the relations Maori have to cultural practices, objects and systems of belief may not be characterizable in the terms available to European-derived law. And yet, representation, as 'impossible' as it is, requires some form of translation if inter-cultural law is to be possible. This question of the possibility of this impossibility hinges on the 'between-ness' of the tattoo. Revealing and outlining boundaries as it crosses and transgresses, the tattoo might be considered radically 'before', in the sense Derrida (1991) gives to the term 'before' in 'before the law' as 'prior to' as well as 'in front of' a past and future beyond any present, a marking out that makes possible any relation or ground of 'between' or 'inter'. In this manner, the (im)possibility of this translation across or between cultures would not only make culture representable or any form of inter-cultural relation, but the possibility of any just relation might also turn out to depend on the repeatability of such a 'marking'.

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