

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

CARL SOLWAY GALLERY, :
 :
 Plaintiff, :
 : DECLARATION OF NAM JUNE PAIK
 v. :
 :
 NAM JUNE PAIK, KEN HAKUTA :
 and NAM JUNE PAIK STUDIOS, INC., : CASE NO. C-1-03-00678 (SSB-JS)
 :
 Defendants. :
 :

State of New York)
)ss.:
 County of New York)

NAM JUNE PAIK, hereby declares:

1. I am a defendant in the above-referenced action. I offer this declaration in support the defendants' motion to dismiss the complaint. The statements contained herein are based upon my personal knowledge.

2. I have been informed by my attorney that Mr. Solway has brought this suit to have the Court declare that the five pieces of artwork shown in Exhibits A through E (Retrobot, Tower, Ruin, Stage and W3) are my authentic works. They are not. The artistic concepts for four of the five pieces are not mine. The fifth piece appears to be a re-creation of a genuine piece I conceived in the 1980's. I played no role in the fabrication of any of the five pieces. I have never approved these five pieces or even seen them.

3. Exhibit A is an unsigned certificate of authenticity mailed to me by Mr. Solway in 2003 for a piece entitled Retrobot. I did not design Retrobot. I did not approve the creation of Retrobot. I have no recollection of ever seeing Retrobot. I do not believe that I ever saw a picture of

Retrobot until I learned that it was being auctioned in New York in 2003. Mr. Solway recently sent me a check for \$90,000 dollars stating that this was my proceeds from his sale of Retrobot in 2001. Since Retrobot is not my work, I returned Mr. Solway's money.

4. Exhibits B and C are unsigned certificates of authenticity recently mailed to me by Mr. Solway for pieces entitled Tower and Ruin. I played no role in designing these pieces. They are not my concepts and I have never seen the works shown in the pictures. I had never even seen pictures of these pieces until after I heard that Mr. Solway had sold them to a dealer in New York as my artwork.

5. Exhibit D is an unsigned certificate of authenticity mailed to me by Mr. Solway for a piece entitled Stage. I designed a piece which resembled this artwork roughly 20 years ago. I believe that the piece was displayed only once and was subsequently destroyed. I did not authorize Mr. Solway or anyone else to recreate this piece. I cannot determine if the work shown on Exhibit D is an accurate recreation of my original concept. I would have to see the actual piece and review the video running on the piece to determine if it was an accurate re-creation of my original concept. In any event, as I have stated, I authorized no one to re-create it.

6. Exhibit E is an picture of a piece entitled W3 recently sent to me by Mr. Solway. I first heard of a piece called W3 sometime before 1996 when I was informed that a work bearing that name was being shown in small regional museums as part of a show of my works assembled by Mr. Solway. I had never approved a piece by that name and was troubled to

learn of its existence. I had never received an adequate explanation from Mr. Solway as to how the piece came to be. The work entitled W3 shown in Exhibit E is not a piece of art which I designed or created.

7. Prior to 1996, I regularly worked with Carl Solway to fabricate artwork. Although my major pieces were generally built in New York, I used Mr. Solway's studio in Cincinnati for the construction of many smaller works. I worked closely with Mr. Solway, as I did with other fabricators, to ensure that my artistic concepts were accurately realized as they were transformed from ideas to models to finished artwork. I regularly traveled to Mr. Solway's studio in Cincinnati to oversee the construction of my works, to inspect the final products and to sign the completed pieces.

8. In 1996, I suffered a stroke which left me partially paralyzed. I last visited Mr. Solway Cincinnati studio shortly before my stroke. I have not been to Cincinnati, or anywhere else in Ohio, since then.

9. Even before my stroke, I had begun to wind down my work with Mr. Solway as I suspected that he was designing and building pieces without my input, such as W3, and passing them off as my work. Since 1996, I have had only sporadic contact with him. From time to time he comes to visit me at my home in New York or my winter home in Florida. In 2001, Mr. Solway came to my home in Florida with several rough concepts for artworks. I agreed to work with him on three TV structures, but we did not agree on any specific concepts or designs. As far as I know, the project never got off the ground, as Mr. Solway never asked for any artistic

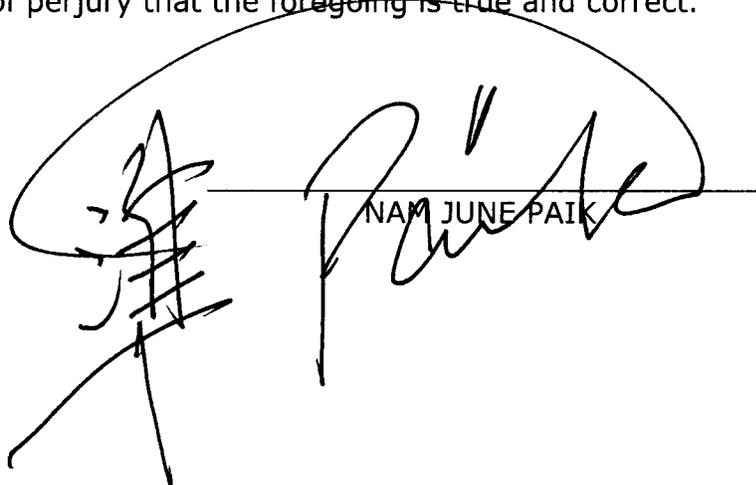
input from me, never asked me to sign off on any final plans and never showed me any final artwork.

10. In order for me to state that a piece of work is mine, it must accurately reflect my artistic concept. The pieces Retrobot, Tower, Ruin and W3 do not reflect any artistic concept of mine. The piece Stage appears to be a reconstruction of a concept I had some twenty years ago. However, I cannot determine if it is an accurate reconstruction, nor did I ever ask for it to be re-constructed.

11. Although Mr. Solway has offered to pay me several hundred thousand dollars if I would agree that Retrobot, Tower, Ruin, Stage and W3 are my works, I cannot in good conscience do so. With the possible exception of Stage, these piece are simply not my artwork.

Dated: October 21, 2003
New York, New York

I declare under penalty of perjury that the foregoing is true and correct.



NAM JUNE PAIK

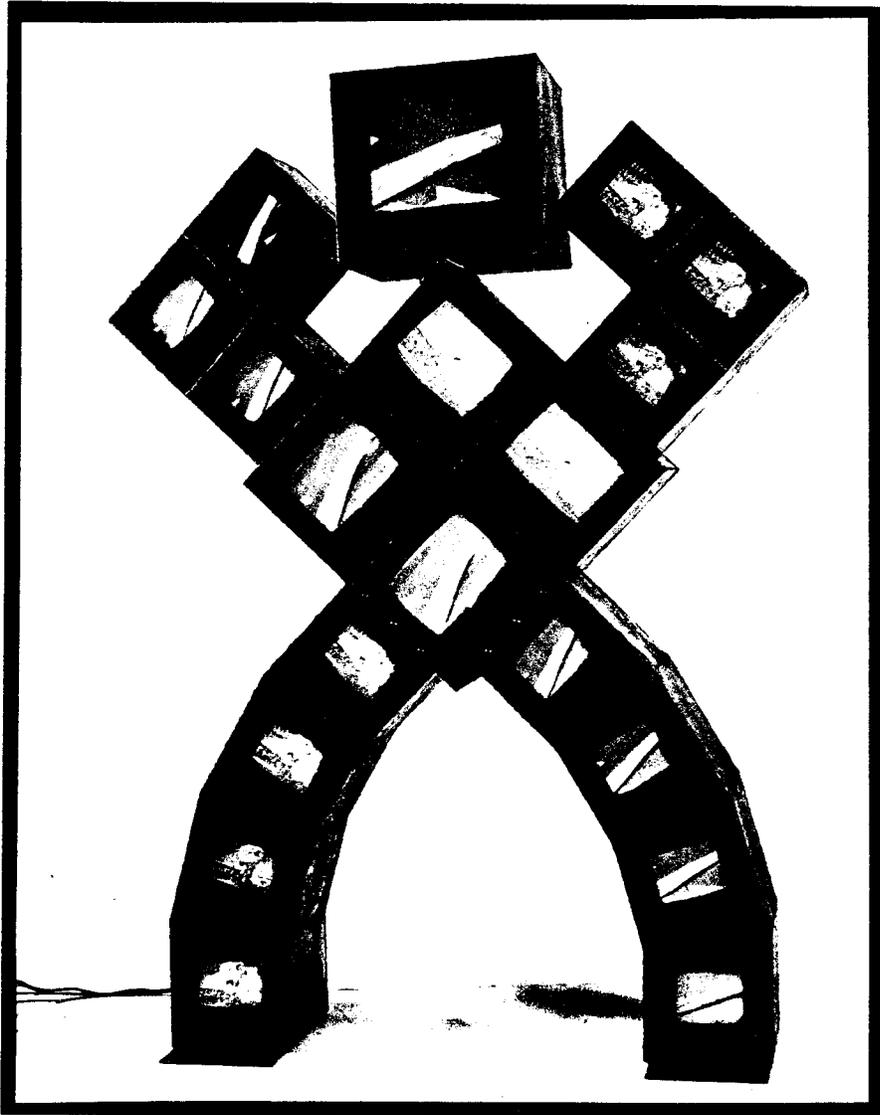
EXHIBIT A

Certificate of Authenticity

NAM JUNE PAIK

Retrobot, 1997

Welded steel framework, 19 color televisions, 2 laser disk players, 2 channel
original Paik video, 101 x 73 x 17 ½ inches



This is a representation of the artwork entitled Retrobot, 1997, by Nam June Paik. Authenticity of the work is hereby confirmed by the artist:

Nam June Paik

Date

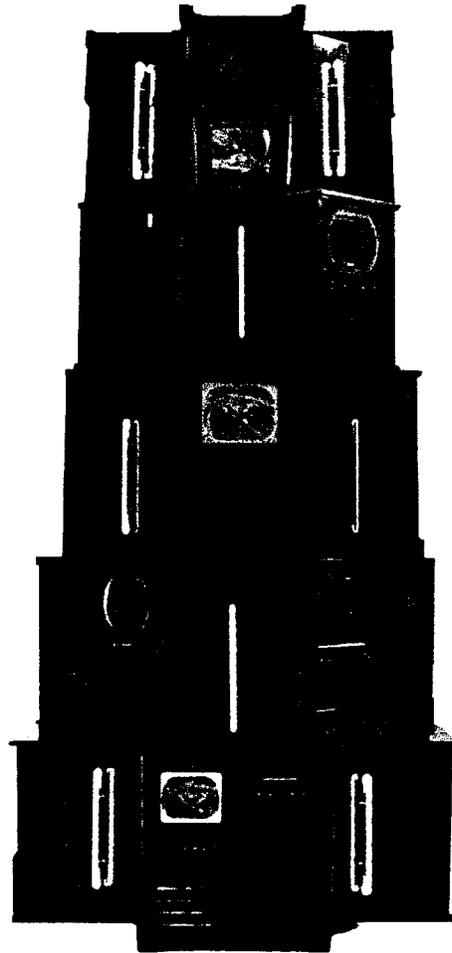
EXHIBIT B

Certificate of Authenticity

NAM JUNE PAIK

Korea Tower, 2001

20 antique wooden TV cabinets, 5 wooden frameworks, 20 color televisions,
20 neon tubes, 2 DVD players, 2 channel original Paik video on DVD
15' 7" x 87" x 87"



This is a representation of the artwork entitled Korea Tower, 2001 by Nam June Paik. Authenticity of the work is hereby confirmed by the artist:

Nam June Paik

Date

EXHIBIT C

Certificate of Authenticity

NAM JUNE PAIK

Ruin, 2001

32 antique wooden TV cabinets, 32 color televisions, 2 DVD players, 2
channel original Paik video on DVD, 13' 8" x 19' x 26"



This is a representation of the artwork entitled Ruin, 2001, by Nam June Paik. Authenticity of the work is hereby confirmed by the artist:

Nam June Paik

Date

EXHIBIT D

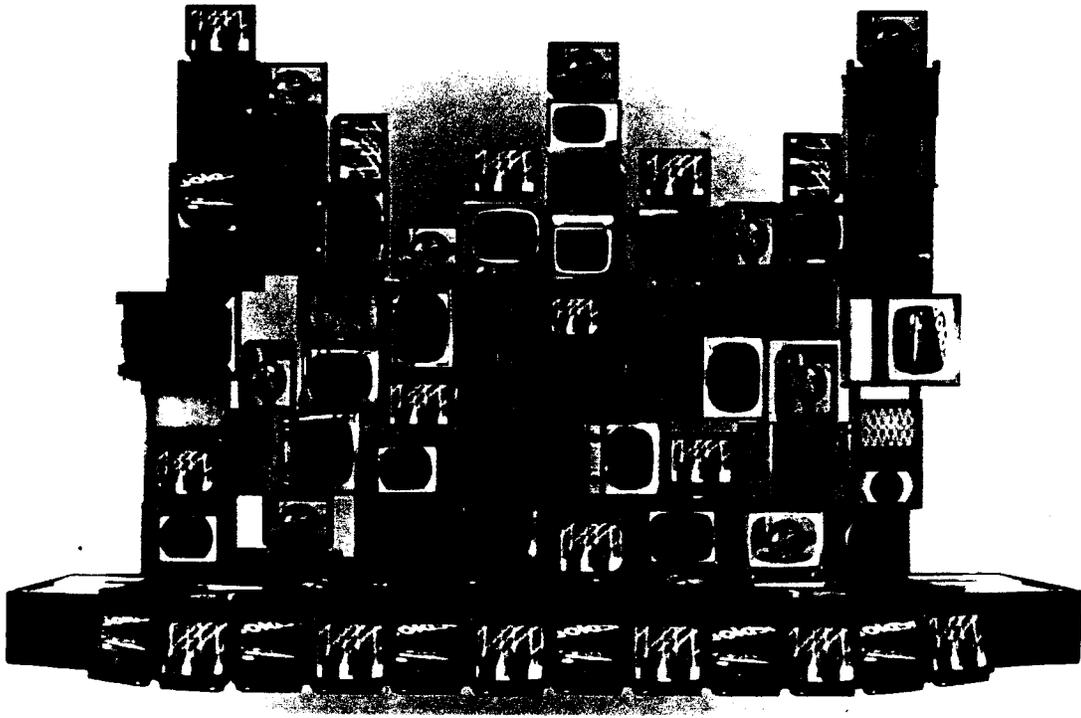
Certificate of Authenticity

NAM JUNE PAIK

Mirage Stage, 1986

40 antique wooden TV cabinets, 33 color televisions, 3 DVD players, 3
channel original Paik video on DVD, 170 x 240 x 96 inches

This work was originally created in 1986 for an exhibition at Dorothy Goldeen Gallery, Santa Monica, California. After the exhibition, the work was disassembled. In 2001 the work was assembled with some changes in the cabinets to accommodate replacing all the old 1986 color TVs with new color TVs.



This is a representation of the artwork entitled Mirage Stage, 1986 by Nam June Paik. Authenticity of the work is hereby confirmed by the artist:

Nam June Paik

Date

EXHIBIT E



Photo: ©1995 Tom Allison & Chris Gornien
Courtesy: Carl Solway Gallery

W3, 1994
site specific, variable dimensions