

JOYWAR – last updated April, 2009

NY artist Joy Garnett makes paintings based on found photographs gathered from the mass media. [[more info](#)]. In January 2004 she had a solo exhibition of a series of paintings called "Riot," which featured the figure in extreme emotional states. One of the paintings, *Molotov*, was based on an uncredited image found on the web that turned out to be a fragment of a 1979 photograph by Susan Meiselas.

When Meiselas and her lawyer learned of the painting, they sent a cease-and-desist letter to Garnett accusing her of "pirating" the photo. They demanded she remove the image of *Molotov* from her website, and that she sign a retroactive licensing agreement [[PDF](#)] that would sign over all rights to the painting to Meiselas, and to credit Meiselas on all subsequent reproductions of *Molotov*. Garnett offered a compromise: she agreed to give Meiselas a credit line on her website, but refused to sign a "derivative work" agreement, claiming that her painting was a transformative fair use of the Meiselas photo. Meiselas' attorney, Barbara Hoffman, turned down the offer and instead threatened Garnett with an injunction, demanding that Garnett comply with all of the demands as well as pay \$2,000 in retroactive licensing fees.

Garnett pulled the image of *Molotov* from her website, lest it result in the entire site being pulled down (cf: a "Take-Down order"). She never signed over the rights to her work, but she was not pursued once the image of *Molotov* was removed from her site.

Before Garnett removed the image from her site, fellow artists who were following her story on Rhizome.org, (a not-for-profit organization with a website and list serve dedicated to new media art), grabbed the jpeg in solidarity. First they copied the html and created mirror pages on their own websites; then they started making anti-copyright, or "copyfight" agitprop based on the painting, resulting in many derivative works including collages, animations, etc. Several media and copyright reform blogs ran the story, and soon it spread globally, along with the images. The story was translated into Italian, Czech, Chinese, Spanish, French, and Catalan.

Two years later, (April 2006), Garnett and Meiselas were invited to speak together at the **COMEDIES OF FAIR USE** symposium at the New York Institute for the Humanities, organized by Lawrence Weschler and hosted by New York University. They had the opportunity to meet the day before over a cup of tea and clear up some misunderstandings. They went on the next day to present their stories in tandem at the conference (see transcripts and recordings below).

Their panel presentations were then re-edited and published in *Harper's*, February '07. (See below).

Harper's Magazine, February 2007

Portfolio (pp.53-58):

Joy Garnett and Susan Meiselas: **ON THE RIGHTS OF MOLOTOV MAN: Appropriation and the art of context** [[PDF](#)]

Presented with Jonathan Lethem's **The Ecstasy of Influence: a plagiarism.**

Commentary

Harper's Magazine, April 2007

Letters: "Credit Where Credit's Due," Lawrence Lessig + Jonathan Lethem; "All Riots Reserved" [[PDF](#)]; "All Riots Reserved" (html)

Harper's Magazine / April 2007
from LETTERS

I am a great fan of Susan Meiselas, a contributor with Joy Garnett to February's portfolio, "On the Rights of Molotov Man," but she, like many photojournalists, denies a crucial element of her work, to its detriment: namely, the photograph as a visual communicator. An image speaks to its viewer in a different way than a word to its reader. The "psychological gesture," a term coined by the director Michael Chekhov, is a physical pose that personifies the struggle or action of its character and conveys a feeling rather than a story. Pictures are not stories, and to attempt to keep them in the cage of storytelling is to deny their essence.

The very act of pressing the shutter of a camera is a decontextualization. It is a process of interpretation that Meiselas seems to dismiss in her own work, because (and with good reason) she maintains the importance of the events themselves. Moreover, her distinction between riot and revolution is itself interpretation. What is a riot if not part of a revolution? The use of "Molotov Man" as an archetype of struggle, an emotional emblem of the spirit of riot and revolution, is far from "diminishment of his act of defiance." It is rather a celebration of it and a sound declaration of the power of the image.

-- Henry Jacobson, Los Angeles

More Commentary on the Harper's piece

Alan Wexelblat, **Copyfight (Corante.com)**, 2/16/2007: Sadly, Not **Everything** is on the Web

edward_winkelman blogspot, 1/23/07: [Appropriate Appropriation](#)

David Bollier, **OnTheCommons.org**, 1/25/07: [Authorship as a Collective Endeavor](#)

Christopher Reiger, **The Hungry Hyaena** blog, January 18, 2007: **Creative Restraint and Responsibility: Artists, Documentarians and Copyright**

[A thorough and thoughtful recap of the Harper's piece]

COMEDIES of FAIR USE:

A Search for Comity in the Intellectual Property Wars, April 28-30, 2006

Presented by:

The New York Institute for the Humanities at NYU in association with the NYC Humanities Council

Read [final program](#) [PDF]

Watch the COMEDIES videos and download mp3s of the talks.

Read transcripts and commentary here.

Download and use/distribute Joywar lecture images here.

Articles and Posts referencing the conference

Mike Madison, **madisonian.net**, The Drama of Fair Use, May 3rd, 2006

Laura Quilter, **derivative works blog**, comedies & tragedies of fair use, April 30, 2006

Articles and Presentations referencing Joywar

Richard Rinehart, **Canadian Heritage Information Network (CHIN)**:

“Nailing Down Bits: Digital Art & Intellectual Property.”

Date Published: 2006-09-15:

In any discussion of the cultural heritage community's response to intellectual property, one should mention art that explicitly addresses copyright. Of course sometimes art works become unintentionally well-known for copyright issues that arise around them. These artworks can become exemplary of a specific intellectual property issue, or can even become cultural touchstones and rallying points for copyright activism. One work in the former category is the aforementioned sculpture by Jeff Koons, *String of Puppies*. A work in the latter category is *Molotov*, a painting by artist Joy Garnett. Joy Garnett's paintings incorporate mass media imagery in the form of painted versions of photo-journalistic images that she finds online and elsewhere. Her subject is not just the subject of the photo, but the photo itself as a cultural artifact. In one such painting, *Molotov*, she cropped and painted an image of a young man about to toss a soda bottle Molotov bomb. She exhibited this painting and was sued [*sic*]* by the photojournalist who had produced the original photograph. This might have remained a routine instance of alleged copyright infringement but for what happened next. The art community rallied to Garnett and many artists began appropriating the same image for works of their own, sometimes changing the contents of the bottle or other details, in a cultural movement that became known as Joywar!

*The threat of an injunction was dropped after Garnett removed the jpeg of *Molotov* from her website.

David Bollier, **On the Commons.org**, “Clearance Culture vs. Creative Freedom,” Nov. 7, 2005

Marjorie Heins, **LAWDRAGON**, “Quiet Riot - Will Fair Use Survive?”

Creativity is under assault. Copyright holders from Mattel to a famed photographer are threatening those who create and critique, undermining technology's ability to propel message and stoke debate.

Marjorie Heins and Tricia Beckles, **Brennan Center for Justice at NYU School of Law, Free Expression Policy Project**.

Symposium on Free Culture & the Digital Library, Emory University, Atlanta, GA, October 2005:

Will Fair Use Survive? Free Expression in the Age of Copyright Control (html); **Download Final Report (PDF)**

David Green, Towards Fair Use Best Practices for Individual Creators: “Pirates, Thieves & Innocents:

[Perceptions of Copyright Infringement](#),” *Copyright Symposium*, **Center for Intellectual Property**, University of Maryland University College, June 16-17, 2005

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Cease + Desist: chronology

February 24, 2004: [Letter #1](#) plus [Non-exclusive license form \[PDF\]](#) from Barbara Hoffman Esq.

February 26, 2004, at 2:21 PM: I posted an open letter "[I am a Pirate?](#)" to the community at Rhizome.org

February 27, 2004: [Garnett's response to Meiselas/Hoffman](#), written with John Koegel.

March 3, 2004: [Letter #2](#) from Barbara Hoffman Esq.

March 5, 2004: [Final email](#) from Barbara Hoffman Esq.

March 8, 2004: [Garnett's 2nd and final letter to Meiselas](#), written with help from John Koegel.

March 8, 2004: "Joywar" is officially kicked off by Rhizome's Net.Art News publication and RSS dissemination of the blog post: [Joywar: The Molotov Years](#) (see below)

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JOYWAR ARCHIVE

Joywar took place during March and April 2004. This page contains an incomplete archive accumulated as the sit-in progressed. Many of the links may now be broken. However, stills and screen shots of many Joywar works can be seen in streaming video as part of the lecture "Painting Mass Media + The Art of Fair Use" that I gave at Columbia University in September 2004 to kick off their Open Source Culture lecture series: <http://www.columbia.edu/cu/arts/dmc/docs/lectureseries.html>, or in the [Thumbnail Archive](#). New articles and links to presentations have since been added to this page.

Read an encapsulization of the story [here](#).
Read about it in the context of fair use [here](#).

JG
NYC
November 2005

Joywar: The Molotov Years

Rhizome.org - Net.Art News, March 8, 2004
<http://rhizome.org/netartnews/story.rhiz?timestamp=20040308>

Recall Toywar, the battle between Zurich-based net collective etoy.com and eToys, a once-profitable but eventually bankrupted toy vendor? Recap: in 1999, the retailer closed down etoy.com, arguing that eToys users who accessed the art site would be offended by its content. In an act of 'electronic civil disobedience,' etoy supporters bombarded eToys.com, overwhelmed its servers, and helped devalue its stock to \$1/share. When the dust settled, the commercial giant had lost five billion dollars worth of equity in 81 days and etoy.com retained the rights to its name. Now: Joywar. Artist Joy Garnett, whose paintings sample photojournalism, is being sued by a photographer over 'Molotov,' a reworked, large-scale painting based on an image from 1978. The case hinges on the question of who owns media images, especially those that are supposedly documentarian: after all, if an artist can lay original and exclusive claim to the portrait of a revolutionary hurling a molotov cocktail, we might have pause to wonder on the nature of that captured event. We might also notice the anxiety released when an image is remade and given new meaning, new circulation, and yes, new profit potential. While she awaits the outcome of the suit, whose plaintiff is demanding several thousand dollars, credit, and that she not exhibit or produce the work again, Garnett has removed 'Molotov' from her website. Garnett's peers have initiated a 'Joywar,' and a flourishing campaign to sample, share and remix is underway. It's impossible to list here all of the mirror sites and uses of 'Molotov' that have exploded in the last week or so, but it's clear that

I am a Pirate ?

Rhizome Raw

<http://rhizome.org/thread.rhiz?thread=12168&text=23570>

response posted by Matthew X.

Message 37 of 39 in thread

3.2.2004

Joy-

I don't think Warhol is the best parallel...you should look into Leon Golub's practice. He too collected thousands of images from the news media and reworked them on his canvases...playing with scale and surface. I remember seeing a video about him working in his studio. He had file cabinets full of images torn from the pages of magazines and newspapers that he would create with.

best,

matthew

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JOYWAR: The Distorted Molotov

An homage to Joy Garnett's Molotov

Culture Kitchen - March 05, 2004

<http://www.culturekitchen.com/archives/000555.html>

Joy Garnett[']s Riot show are oil paintings of images sampled from newswires and other public news media. Now she is not only being sued by the photojournalist whose picture was sample[d] in [Molotov](#) but she is being asked to never show and never sell the artwork. This is obviously not a case of an artist protecting his speech rights but of one artist using his copyrights as a way to censor another artist. A sad case of Stockholm Syndrome if there ever was.

Check her work at [First Pulse Projects](#) and drop her a line or two at [joyeria\[at\]walrus\[dot\]com](mailto:joyeria[at]walrus[dot]com).

Trackbacks

Trackback for this post:

<http://www.culturekitchen.com/cgi-bin/movabletype/mt-tb.cgi/522>

The following blogs make reference to this post :

» [Storm in a Pepsi bottle](#) de Light From An Empty Fridge

Artist Joy Garnett seems to have got into a bit of legal trouble with a painting called Molotov, part of... [\[More...\]](#)

Found in March 12, 2004 04:04 PM

» [Britlatov Cocktail](#) de sasnaK

The American artist Joy Garnett, whose paintings are derived from news images, is faced with a legal action for thousands of dollars over this one. This has nothing to do with the protection of livelihood and everything to do... [\[More...\]](#)

Found in March 26, 2004 11:43 AM

Say it loud, say it proud!

1 Comment by: doron at March 6, 2004 11:21 AM

it is my opinion that image has no copyrights .

2 Comment by: Oligonicella at March 11, 2004 10:31 AM

Baloney. That photojournalist makes a living by taking photos. Sometimes at great risk to self. Did the artist *ask* the photographer? Did the artist *pay* the photographer for the right to use his/her copyrighted work?

The lazy attitude that one has the -right- to simply steal the work of another and use it as the

basis for a prefab hack is just that, lazy. How hard is it to simply paint someone throwing a mol?
Not. Not at all. What the painter did was to plagerize. That is unethical, and illegal. No sympathy here.

3 Comment by: carol at March 11, 2004 12:15 PM

The case has similarities to one involving the Barbie and Ken dolls from several years ago. An artist took the dolls (some bought, some found) and modified them, then resold them. The court verdict was that the modified dolls where an original peice of art work and even though Mattel owned the copyrights on the unmodified version of the dolls, they could not prohibit the resale of the modified ones, nor could they collect royalites. Legal precedent is with the painter in this case.

4 Comment by: Sigivald at March 11, 2004 07:31 PM

So, Oligonicella, if a painter ever sees a photograph, and paints a picture based on seeing it, does the painter also need to ask and pay?

Since when is painting a picture based on some other work the same as "stealing the work of" that person? The photograph is copyrighted; images created via other media based on seeing that photograph are not, however, violations of that copyright.

Making a copy of the photohgraph (even with, say, photorealist painting) might be violation. Making a painting compositionally based on the photograph, but with painterly method and especially with substantial changes, is not, nor should it be.

(Doron is still wrong; images have copyrights. But s/he is right that the image's copyright only applies to the literal image, not to interpretations of that image, especially wholly-created ones in other media - there may be some meat in a copyright case, of course, for an "interpretation" that consisted simply of re-coloring a scan in Photoshop... but IANAL.)

5 Comment by: ryan at March 12, 2004 06:50 PM

The problem with dealing with this as copyright, is that Joy's work (like that of Gerhard Richter, Rosenquist, Rauschenberg, Levine et al) is a comment on the image being appropriated - and therefore should be considered critical commentary - a fair use. But it gets sketchy for some because the painting is also being sold. it's not sketchy for me because the object of the painting is an artifact, just like the original photo, that is sold not based on it's materiality (well maybe for some painting collectors it is about that, but not usually photography), but based on it's communicative potential. no one has asked if the photographer obtained permission to capture the image of the person throwing the molotov? why's that? we should believe that someone owns the rights to an image because they snapped a shutter, while the person photographed is merely a landscape? Joy merely treated the image as the person in the photo was treated.
But the archive must be kept safe...

ryan

6 Comment by: steve at March 19, 2004 10:14 PM

someone should have thought to
copyright that cross around his neck
that someone would have made a few bills

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Joywar

Lukemelia 3/8/2004, 11pm

<http://www.lukemelia.com/blog/archives/2004/03/07/>

Now playing: [Joywar](#).

[Molotov image]

It's like [Grey Tuesday](#) for visual art...

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Diritti di Riot

Guerriglia Marketing March 9, 2004

<http://www.guerrigliamarketing.it/news/news.htm>

L'artista Joy Garnett è stata citata in giudizio da un fotografo autore a causa della sua opera Mololotov,

una rielaborazione ad olio su grande formato di un'immagine pubblicata nel 1978 su un settimanale americano.

Un caso di estremismo del diritto d'autore che non solo pone l'annosa questione della facoltà di rielaborazione delle immagini, ma lo fa a partire da un'originale che è una fotografia di cronaca.

Il fotografo ha infatti potuto catturare il gesto del soggetto senza premurarsi del suo consenso, avvalendosi del diritto di cronaca. Mentre, paradossalmente, quel gesto di ribellione viene trasformato nel suo opposto nel momento in cui diventa una semplice rappresentazione.

Joy Garnett è stata così costretta ad eliminare l'opera dalla sua serie Riot (già esposta a New York) oltre che dal suo sito internet.

Per rispondere a questa assurda causa, una serie di siti della comunità artistica (e non solo) hanno cominciato a ripubblicare la pittura della Garnett in originale o rielaborandola.

Questa la ragione della nuova immagine di home page sul sito di guerrigliamarketing.it.

Attenzione: grazie a tutto questo, l'opera finirà per aumentare il suo valore

>>[solidarietà a Joy Garnett](#)

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Joywar, riprodurre per tutelare.

March 10, 2004 – Neural.it

<http://www.neural.it/nnews/joywar.htm>

La rielaborazione dell'opera di un'altra persona non è una pratica nuova nel mondo dell'arte, e spesso gli autori originali coinvolti hanno manifestato disappunto per aver perso una parte della loro 'paternità'. Paradossale è però il caso di Joy Garnett, artista che sta per subire una causa di violazione del diritto d'autore per aver interpretato in pittura alcune celebri foto di cronaca degli anni settanta. Uno dei fotografi originari ha chiesto alcune migliaia di dollari di risarcimento intimando che l'opera ('molotov') non sia più esposta, né pubblicata e che le sue riproduzioni vengano rimosse perfino dal web. All'assurdità della richiesta la risposta spontanea è stata quella di creare un network di siti che riportano l'immagine 'proibita' in una qualche forma. La riproduzione infinita dell'opera è la risposta politica che si avvale di un presupposto tecnico tanto necessario (l'immaterialità della riproduzione in rete, e quindi la sua semplice duplicazione), quanto ormai acquisito da tutti, meno, forse, dagli artisti ancora seduti sui loro privilegi di mercato.

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tshirt

Date: Wed, 10 Mar 2004 16:33:22 +0100

From: ottokin <xxxx@xxxx.com>

To: Joy Garnett <joyeria@walrus.com>

Subject: Re: tshirt

Produce this shirt an fuck the Pepsi!

image archived here:

http://newsgrist.net/joywar_tshirt.jpeg

bye from Italy

Paolo

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TOYWAR RECALL

2004-03-10

By etoy.MARCOS @ 00:04 [etoy.ACTIVITIES]

<http://feed.etoy.com/p301.html>

JOYWAR. the next art war!

[Image]

for further information go:

<http://www.somedancersandmusicians.com/solidarity.html>

<http://www.eyebeam.org/reblog/>

<http://rhizome.org/netartnews/story.rhiz?timestamp=20040308>

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Storm in a Pepsi bottle

Light from an Empty Fridge (blog), Friday 12 Mar 2004 16:03

<http://www.fridgemagnet.org.uk/archives/2004/03/002812.shtml>

Artist [Joy Garnett](#) seems to have got into a bit of legal trouble with a painting called [Molotov](#), part of an exhibition called [Riot](#) based on photos from newswires and news sources.

What's the issue? Well, it's not, as I first expected, the fact that the molotov bottle has a Pepsi logo on it. That initially reminded me of Alexander Kosolapov, whose use of corporate logos I [wrote about before](#). It appears, though, that the painting is based on a photograph taken in 1978, and the photojournalist who took it is suing for X thousand dollars and also as a general Cease And Desist to prevent further exhibition.

It's not therefore a case of Evil Corporate Censorship Boo Hiss, unless there's something going on that I wasn't aware of, but it does seem like another example of a ridiculous use of copyright given that the original was taken over twenty-five years ago and this painting cannot be said to be depriving the original photographer of anything at all - in fact it potentially increases her profile. Nobody is going to use this painting for some purpose instead of the original. A painting of a photograph is not a copy of the photograph, rather a derived work, and the original was publicly displayed in news media which increases the degree to which it could be said to be public domain. This looks like simple artistic oversensitivity and I don't have much sympathy.

Anyway, here are a couple more links on the subject. New developments will bring updates, though only if I hear about them, obviously.

[News story on rhizome.org](#) where Garnett appears to be a member. I'm delving through posts on rhizome.org to try to find out a little more information.

[Solidarity page](#) - links to lots of interesting modified and derived works that people have done based on

Molotov as part of the campaign - for example, [Distorted Molotov](#).

[...]

» [trackback \(0\)](#) » [art+design](#) » [ip](#)

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netartreview

http://www.netartreview.net/logs/2004_03_07_backlog.html

:: Saturday, March 13, 2004 ::

The artist [Joy Garnett](#) may have a lawsuit against her for using a photo-journalist's image in her painting titled [Molotov](#). What has followed after Garnett made her situation public is a deluge of appropriations and commentaries by net art communities (although Garnett is not revealing the names of the plaintiff or her lawyer -- we know the plaintiff is a woman). Joy Garnett recently updated her "webring" on the Rhizome Raw list; her original post can be found on Rhizome.org's thread: <http://rhizome.org/thread.rhiz?thread=12379&text=23895#23895> Because there currently is no website hosting all of this information. Net Art Review is supplying all the links, as updated by Joy Garnett, listed below:

Molotov Web ring : [snip!]

:: Eduardo Navas [\[+\]](#) ::

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netartreview

http://www.netartreview.net/logs/2004_03_14_backlog.html#107934566080035392

:: Monday, March 15, 2004 ::

Recently several mailinglists were flooded with the support messages and actions for the Molotov painting by Joy Garnet (see post below by Eduardo Navas). Though I didn't read all responses (I'm not on all lists that commented on the Molotov case), the main thing I missed in all comments was that this whole type of copyright lawsuits have had already some clear precedents. Probably the best known example is the case Rogers vs Jef Koons, in which Rogers sued Koons for using his copyrighted image "Puppies" for the work "String of Puppies". Jeff Koons lost the case and it's interesting to know why. Here I quote from the article "[COPYRIGHT PROTECTION AND APPROPRIATION ART](#)" by William M. Landes:

"... is appropriation of mass media images by the artist Jeff Koons who was the defendant in three similar copyright cases in the 2nd Circuit. In the best-known case, Rogers v. Koons, the defendant purchased a note card displaying a photograph of a group of puppies with their owners, tore off the copyright notice from the card, and hired an Italian foundry to make four sculptures based on the photograph. Since Koons admitted copying, the only issue on appeal was if his copying was a fair use.

Counting against fair use is that Koons added little to the original image except for changing the medium and adding color. Indeed, altering the image would have defeated his purpose of changing the meaning of the image by putting it in a different context. On the other hand, Koon's sculpture is not likely to damage the market for the copyrighted photograph. The products are in different markets and won't compete for sales. Yet the plaintiff's business was licensing photographs so upholding Koon's fair use defense could potentially eliminate an important source of revenue to photographers and result in adverse incentive effects.

Koons' principle argument for fair use was that his work should be privileged as a satirical comment or parody. By appropriating an everyday image, he claimed that his work commented critically on a political and economic system that places too much value on mass produced commodities and media images. Not surprisingly, the court rejected his defense because his work did not comment directly on the appropriated image. As noted earlier, fair use requires that the parody be directed at least in part at the original work. When the parody comments on society at large, the defendant should be able to license the copyrighted work."

:: Peter Luining [\[+\]](#) ::

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Miscellaneous Quahogs

Wednesday, March 24, 2004

http://www.sensoryresearch.com/~quahogs/weblog/2004_03_01_archive.html

Read this, if you're concerned about artists' rights to rework culture:

[Joywar: The Molotov Years](#)

posted by Quahogs ! at [3/24/2004 10:22:04 PM](#)

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More about painting, photography, and copyrighting images

March 24, 2004 - Working Artist's Journal - Anna L. Conti, San Francisco

<http://www.bigcrow.com/anna/journal/mar04.html>

Is it ethical for an artist to paint a picture based on a photograph, without permission of the photographer?

This issue has come up more and more frequently since the Pop art era, and it is currently being debated online and in the art world because of a lawsuit being brought against painter [Joy Garnett](#), by a photojournalist. The photographer shot a photo of a young man throwing a molotov cocktail, the image was printed in a newspaper, and Ms. Garnett made a painting from the image. The painter's friends are [taking action](#) by disseminating Ms. Garnett's painting, as well as digitally manipulated versions of it, as widely as possible. I think they are trying to make these points:

- 1- copyright protection is meaningless in these times
- 2 - we don't care if you use our images, so why should you care if we use yours
- 3 - copyright protection is wrong - open source standards are better for society

(There is a parallel version of this argument in the music industry and it seems like plagiarism stories have been in the news a bit recently, so maybe it's a bigger story than I realize, but or now I want to focus on visual art.)

Both photographers and painters are visual artists. They both manipulate their mediums to present a personal vision to the viewer. Some present "straight" reporting, which is generally considered "real", "realistic" or "realism". Others focus on stylistic concerns, but their work is usually still "representational". Others are more concerned with pushing the limits of their mediums, and these images often become "abstract." And there are plenty of artists who cross these fuzzy boundaries.

Sometimes painters use photographs. They make painted copies of all or part of the photo. They copy the photo as exactly as possible, or just use it as a starting point, and change so much that the source is not recognizable. Sometimes they take the actual photo and literally paste it into the painting.

Less often, photographers use paintings (or sculptures.) They shoot photos of sculptures and paintings in public places. They set up a scene to look like a famous painting, then shoot photos of it. In at least one case a photographer (Richard Misrach) photographed parts of paintings and then published a book titled "[Pictures of Paintings](#)".

Both painters and photographers "use" what they see in their world. This includes people, animals, flowers, food, furniture, buildings, vehicles, natural and man-made land formations, sunsets, sunrises, bill boards, magazines, videos, web pages, etc. The list is infinite. There is no shortage of images.

Reasons why artists might decide NOT to paint or photograph a particular image:

1. They live in a society that jails or kills artists who make this kind of image.
2. The image is copyrighted by someone and the artist does not wish to risk a lawsuit.
3. The subject of the painting or photograph does not want to be portrayed in this way, and the artist cares about the feelings of this person or group.
4. The image has already been done over and over, and this artist has nothing new to add.

... and, after all, there is no shortage of images.

Reasons why artists might decide NOT to sue another artist for "stealing" their copyrighted image:

1. It's more trouble than it's worth - how much money can you squeeze out of the average artist?
2. Thinking about people who live in glass houses.... is there an artist anywhere who hasn't

appropriated something from other artists?

3. The energy that goes into tracking down and prosecuting copyright violations is not put into creating new work.

... and, after all, there is no shortage of images, and new work to be created.

So, what I still don't understand is why this still happens. If your business is in the visual arts, then the issue of copyright is not new to you. So why ask for trouble? If you're trying to make a political point, then I can see how getting sued would add to the value of your project. But if you're mainly interested in aesthetics, use your creative juices and pick another image that does the same thing... it's not like there's a shortage of images.

[Elise Tomlinson on the law and painters using public images, March 23](#)

[photonet forum - a series of letters from photographers on the issue](#)

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Who owns the rights to this man's struggle?

nmazca.blog, mar 26, 2004

http://nmazca.com/blog/arch/2004_03_01_archive.htm#108055172851312438

Yesterday afternoon I clicked over to [Amberglow](#) and noticed a mixed-up, tiled version of the painting, *Molotov*, above. That blog's author mentioned legal action that PepsiCo had brought against the painter, one [Loy Garnett](#), after her "[Riot](#)" series was shown at a NYC gallery.

Scores of freedom-minded, art-savvy, anti-corporate bloggivists have since risen in (virtual) [solidarity](#) with Ms. Garnett, posting either the same image or variations thereof ([this is my favorite](#)) in order to assert artists' rights. This collective action has been called [JoyWar](#).

I was excited by all of this, and I decided that I too would take up the fight against Pepsi and its heavy-handed intellectual-property bullying. But that would have to wait until after I bought a couple of birdfeeders and tidied up the back patio.

So... those tasks completed, I sat down to stick to it The Cola Man. Only to find out that Pepsi was not the litigant at odds with Ms. Garnett. It is, in fact, the photographer whose image Garnett had downloaded and used as the source for her painting (typical for the content of "Riot"). I discovered this little wrinkle in the Molotov story after -- say it ain't so! -- [taking the time to read the backstory](#). One particular comment on [another blog](#) -- in regard to attribution that Garnettttt dddidn't give to this unnamed, world-famous female Magnum photographer -- left me wondering "So who is it?"

[Susan Meiselas](#). Very attentive readers of nmazca.blog will recall the bit that I posted about her book, *Carnival Strippers*, back in October. Meiselas' photo of a Sandinista fighter was made during her [coverage of the armed struggle against the Somoza dictatorship](#) in Nicaragua... which later turned into a struggle against the [Reagan-sanctioned, CIA-backed Contras](#).

"This is obviously not a case of an artist protecting [her] speech rights but of one artist using [her] copyrights as a way to censor another artist." Is that so? I would say not, and I'm fairly liberal with access and use of my own images. The major factor is attribution, if not permission. It can't be assumed that a grainy photo from a not-so-long ago war is in the public domain. Is it sufficient to make a general statement about the use of others' images, make comments about reinterpretation and altered contexts, and then present the work for sale (again, without credit given to the original creator)? Garnett uses found images, also, and it would be too much to expect attribution with those. But this other bit is tricky, and I wouldn't be so hasty to dismiss Meiselas' assertion... although her bit about never showing the painting again, come on.

I'm concerned about originality on one hand, and freedom to adapt on the other.

Another noteworthy point is this: "No one has asked if the photographer obtained permission to capture the image of the person throwing the molotov? Why's that?"

We should believe that someone owns the rights to an image because they snapped a shutter, while the person photographed is merely a landscape?" Thus, my original question: Who owns the right to this man's struggle?

Now if you'll excuse me, I've got to burn a copy of [The Grey Album](#).
mr damon 04:15 [\[p-link\]](#)

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Joywar, What is it good for?

greg.org, March 26, 2004

http://greg.org/archive/2004/03/26/joywar_what_is_it_good_for.html

The artist Joy Garnett just had a show called "Riot" at Debs & Co, lushly painted figures in caught in moments of distress or violence. Then she got threatened with a lawsuit by a Magnum photographer for referencing a 1978 image of a guy throwing a Molotov cocktail. Of course, the irony [?] is that, as Garnett says, "my work is ABOUT the fact that images are uncontrollable entities. It's about what happens when you remove context and framing devices." Which means, of course, it's about getting sued. Congratulations, Joy. I hope you get sued again real soon.

Related: [The Bomb Project](#), an archive of "nuclear-related links organized for artists."

art l posted by greg allen March 26, 2004 09:08 AM

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JOYWAR

Stay Free! Magazine, march 26, 2004

<http://www.stayfreemagazine.org/public/>

New York-based artist Joy Garnett has been threatened with a lawsuit for creating Molotov, a painting based on a 1978 photograph. Though Joy has removed an image of the offending work from her website, supporters have rallied around her cause and created art based on HER art. You can

see the image and read more about it here:

<http://rhizome.org/netartnews/story.rhiz?timestamp=20040308>

<http://rhizome.org/thread.rhiz?thread=12168&text=23419#23419>

My personal faves, of the Molotov-inspired artwork:

<http://www.sicplacitum.com/arte/molotov.htm>

<http://sasnak.org/archives/000092.html>

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The Pepsi Molotov Cocktail

i_speak_of_dreams weblog, Sunday, March 28, 2004

http://lizditz.typepad.com/i_speak_of_dreams/2004/03/als_away_again.html

Al's awake again. I made dinner. Then there's this:

"The American artist Joy Garnett, whose paintings are derived from news images, is faced with a legal action for thousands of dollars over this one. This has nothing to do with the protection of livelihood and everything to do with the suppression of free speech and free artistic practice. Don't let the schoolyard bullies win! Show your solidarity with Joy by grabbing this image and posting it on your website or by making your own artwork derived from it."

(the quote is from BoingBoing, linked at the end of this post.)

[The protest page is here.](#)

This is the image in question: <Molotov image>

I assumed that the suit was brought by Pepsi, as somehow demeaning the brand. It wasn't.

[Here's the artist's website.](#) [sic]

“...the most interesting thing just happened: I'm being sued for copyright infringement (does it mean I'm finally a grown-up?). the joke is I was served the letter the day after I met with an arts funding rep who encouraged me to list "sampling" on my grant application as part of my painting practice. It made the whole thing seem almost funny.

The plaintiff is a world-famous photojournalist who takes pics in war-torn regions; the pirated image is a detail of a photograph taken in 1978. Months back while trolling the Web for news images and such, I found the cropped detail w/ no credit line, probably on some anti-NAFTA/anarchist solidarity website, printed it out and stuck it in a folder to paint later. I had no idea it was a detail of a pic by a Magnum photographer or that it was from their most seminal series and book. The joke is definitely on me...”

Is Joy Garnett a plagiarist? Is it "stealing" to use a figure from another's work in your own? I'd sure like to see the original image, to see how much Garnett changed the image. What would happen if Garnett submitted this work for credit in a university class?

Postscript: I had first seen the image, and the controversy, from [BoingBoing's](#) guestblogger. [Johannes Grenzfurthner](#) is writer, artist and founding member of Vienna/Austria based art-tech-philosophy group monochrom. monochrom is an unpeccable mixture of proto-aesthetic fringe work, pop attitude, subcultural science and political activism. monochrom's mission, its passion and quasi-ontological vocation, is primarily the collection, grouping, registration and querying (liberation?) of the scar tissue represented by everyday cultural artifacts.

More postscript:

The original image is [here](#)--it is huge, 70 by 60 inches. The artist has exhibited the work at [Debs & Co](#)--here are [more images](#). For my money, while Garnett's work is obviously BASED on the work of others (news photographs) they are not mere copies; the works are transformed by Garnett's craft (the act of painting) and vision (what is emphasized, what is left out.) Sunday, March 28, 2004 at 09:39 AM in [Random Walk Thru Internet](#) | [Permalink](#)

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Joywar

<http://www.sicplacitum.com/>

April 2004

La artista Joy Garnett, que basa sus pinturas en fotografías encontradas en prensa, revistas e Internet, se ha visto implicada en una demanda judicial millonaria por violación de derechos de autor. La fotógrafa Susan Meiselas, de la agencia Magnum, la ha denunciado por emplear una de sus fotografías en un cuadro que Garnett expuso en una galería de Nueva York. La fotografía de Meiselas, de 1978, reproduce la imagen de un guerrillero sandinista a punto de tirar un cóctel Molotov elaborado en una botella de Pepsi. Garnett encontró esta imagen, ya recortada y sin mención de su autora, en una página web y la incorporó en una pintura.

La noticia de la demanda judicial se difundió rápidamente por Internet, en particular a partir de una noticia publicada en el portal de arte en Internet Rhizome. La cuestión de los derechos de autor de la fotógrafa sobre la imagen (no ya la foto en sí) y el hecho de que el pleito obligaba a Garnett a retirar la imagen de su web y posiblemente destruir la pintura, suscitó una rápida y airada reacción en la comunidad artística. La imagen del cuadro de Garnett se copió en varios otros sitios web, para impedir su censura, y se propuso elaborar variaciones a partir de la obra original en señal de apoyo. Numerosos weblogs difundieron y comentaron el caso, que ha pasado a denominarse "Joywar", en referencia a "Toywar", otro conocido caso judicial que

enfrentó al colectivo artístico eToy con una multinacional. La implicación fortuita de Pepsi en la historia hizo pensar a muchos que era la empresa la que denunciaba a la artista.

Finalmente, el caso parece haber quedado en suspenso. La artista ha elaborado una completa lista de los artículos que han recogido la historia, así como de las variaciones que se han creado a partir del cuadro original. Pau ha participado en esta iniciativa con una animación flash que figura entre las favoritas de la propia Garnett.

Enlaces

Joywar: lista de enlaces elaborado por Joy Garnett
<http://firstpulseprojects.net/joywar.html>

"Molotov", animación flash por Pau Waelder
<http://www.sicplacitum.com/arte/molotov.htm>

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Joywar – autoři proti autorskému právu

by L.P.Fish; 9.4.2004 | 10:47:33

<http://www.reflex.cz/Clanek27815.htm>

<http://www.reflex.cz/>

Před několika dny oznámila americká malířka **Joy Garnettová**, že její případ byl stažen od soudu a že tak končí jeden z nejhezčích případů solidarity internetové komunity s kulturou nových médií, který vstoupí do dějin jako **Joywar**. Příklad celkem jednoduchý.

Joy Garnettová je malířka. Náměty svých obrazů čerpá z dokumentárních fotografií. Když se na její webové stránce objevil obraz Molotov, namalovaný podle fotografie z demonstrace publikované v tisku v roce 1978, přišla jí žaloba o náhradu škody v řádu tisíců dolarů. O tom že se pojetí problému „autorských práv“ mění v souvislosti s rozvojem technologií a vznikem nových médií asi není pochyb. O tom, že tento vývoj zahrnuje i řadu soudních sporů a právních či mocenských excesů také ne.

Své by o tom mohli vyprávět hactivisti ze skupiny Yes Men, jejichž cynická **parodie** na stránky koncernu Dow Chemical (pod který spadá firma Union Carbide odpovědná za jednu z největších ekologických katastrof v indickém Bhópálu), rozčlivila korporaci natolik, že se kromě žaloby na samotnou organizaci pokusila zlikvidovat i intelektuální newyorský server **Thing**.

Garnettová si však vzpomněla na jiný slavný případ. V roce 1999 byla přerušena činnost stránky švýcarských internetových umělců a aktivistů **etoy.com**, na základě žaloby prodavačů hraček **Etoys**, kteří tvrdili, že lidé jdou na doménu etoy.com automaticky pro jejich zboží a jsou zmateni jejím obsahem. Snaha firmy Etoys vzbudila takovou zuřivost internetové komunity, že v období jedna osmdesátí dnů nazývaném později jako Toywar uživatelé soustavně zahlcovali její server a především způsobovali špatnou pověst protestními stránkami o nichž informovala i mainstreamová média. Způsobili tak propad jejich akcií a škodu odhadnutou na několik desítek milionů dolarů. Od té doby si na švýcarské aktivisty sídlící na etoy.com nedovolil nikdo sáhnout.

Ale vraťme se k Joy Garnettové. Ta zveřejnila na internetu svůj případ, v němž vysvětlila vlastní postoj k autorským právům, k tomu proč je její obraz něco „nového“ jakkoli v něm zužitkovává již vytvořený artefakt a požádala o pomoc. Okamžitě se vytvořily stránky šířící dál informace o akci dál nazývané **Joy War**. Kopie fotografie, která byla předmětem žaloby, se bleskem rozšířila a během několika týdnů vznikly stovky jiných uměleckých děl rozmístěných na stovkách míst na internetu a všechna „samplerovala“ zmíněnou fotografii. Žaloba byla stažena.

Na tomto případě je celkem hezké, že staví do opozice proti „autorskému právu“ samotné autory. Ukázalo se, že autoři samotní chtějí „samplerovat“, že je tato metoda v umělecké komunitě obecně přijatelná a tak pomalu nezbyvá přiznat, že „autorská práva“ v současné podobě vyhovují jen jejich překupníkům. A to je jistě jeden z mnoha důvodů, proč tenhle stav změnit. Parodické použití symbolů existující firmy či „samplerování“ existujícího artefaktu prostě chápou umělci jako otázku svobody. A kdo jiný než „autoři“ by měl rozhodovat o jejich „právech“?

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Molotov Mash-ups: some favorites

<http://www.sicplacitum.com/arte/molotov.htm>
<http://www.rssgallery.com/book.htm>
http://www.yougenics.net/griffis/images/JOY_billboard.jpg
<http://sasnak.org/archives/000092.html>
<http://art-design.smsu.edu/cooley/files/molotov/about.html#>
<http://www.anatomyofhope.net/joy/>
<http://www.electrichands.com/shanghai-pepsi.jpg>

UPDATE: April 2005 email from **Esparzios Punk-Rock** requesting permission to make a CD cover. Here's the **finished cover**.

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MOLOTOV WEB RING

[Note: some of the urls below may no longer contain references to this issue.]

Update: New to Joywar (ca. January 2005):

Getaway Experiment: Solidarity

http://newsgrist.typepad.com/underbelly/2005/01/handmade_remixe.html

Still Images: collage / agitprop

<http://micron.go.dyndns.org>
<http://www.wright.edu/~verdon.2/>
<http://sasnak.org/archives/000092.html>
<http://www.splatterkitty.com/>
<http://www.popageorgio.com/index.php?p=20>
<http://www.luthien-tinuviel.net/Molotov/>
<http://www.mirror-site.tk/>
http://www.yougenics.net/griffis/images/JOY_billboard.jpg
<http://www.wallcloud.com/molotovpow.html>
<http://www.antiexperience.com/edtang/works/molotov.html>
<http://www.1-900-870-6235.com/Images/PeaceInOurHands.jpg>
<http://www.voyd.com/joywar/joywar.jpg>
<http://art-design.smsu.edu/cooley/files/molotov/about.html#>
<http://navasse.net/joywar/>
<http://www.anatomyofhope.net/joy/>
<http://www.electrichands.com/shanghai-pepsi.jpg>
<http://www.voyd.com/joywar/Index.htm>
<http://www.rssgallery.com/book.htm>
<http://www.voyd.com/joywar/ascii.htm>
<http://www.robertspahr.com/joy/>
<http://tinjail.com/joy/>

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Moving Images / interactive

http://lovebot.free.fr/joywar_cube.htm
<http://www.ysgoon.com/diz/web/molotov/>
<http://www.furtherfield.org/cwebb/screenmoments/molotov.html>
[http://www.naxsmash.net/bloodellipse/text/disastersofwar\(molotov\).html](http://www.naxsmash.net/bloodellipse/text/disastersofwar(molotov).html)
<http://www.anti-chambre.net/joywar/>
<http://www.sicplacitum.com/arte/molotov.htm>
<http://art-design.smsu.edu/cooley/molotov/>
[http://544x378.free.fr/\(WebTV\)/html/molotov.html](http://544x378.free.fr/(WebTV)/html/molotov.html)
<http://www.gloriousninth.com/piratesofpenzance.html>
http://www.somedancersandmusicians.com/Some_QuickTime_Movies/art.mov

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Mirror Images

<http://www.artnet.com/Magazine/reviews/green/green3-17-6.asp>
<http://www.wallcloud.com/molotov.html>
<http://www.twhid.com/misc/joy/molotov/>
<http://linkoln.net/molotov.gif>
<http://www.leewells.org/joy/Molotov.html>

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Info / blogs / + image/s

<http://www.constantvzw.com/copy.cult/home/read.php?page=mes218.txt>
<http://rhizome.org/thread.rhiz?thread=12673&text=24383>
http://nmazca.com/blog/arch/2004_03_01_archive.htm#108055172851312438
<http://www.vojir.com/other/exf-rynyvayzy.html>
<http://mysite.verizon.net/vze8ci59/>
http://greg.org/archive/2004/03/26/joywar_what_is_it_good_for.html
http://lizditz.typepad.com/i_speak_of_dreams/2004/03/als_away_again.html
<http://www.alterazione.net/>
<http://www.dudecheckthisout.com/Blog.aspx?blogId=383>
<http://www.artnet.com/magazine/reviews/green/green3-17-04.asp>
<http://www.verybusy.org/v4/index.php?load=include/home/home.php>
<http://www.ostili.splinder.it/>
<http://www.fridgemagnet.org.uk/archives/2004/03/002812.shtml>
<http://home.comcast.net/~aussieintn/>
<http://samizdat.manilasites.com/>
<http://italy.indymedia.org/news/2004/03/495780.php>
<http://feed.etoy.com/p301.html>
<http://www.neural.it/nnews/joywar.htm>
<http://www.neural.it/>
<http://www.lukemelia.com/>
<http://www.guerrigliamarketing.it/>
<http://www.guerrigliamarketing.it/news/news.htm>
<http://www.murmurs.com/drupal/?q=import/feed/3>
<http://www.yo-yoll.net/>
<http://www.eyebeam.org/reblog/archives/000420.html>
<http://rhizome.org/netartnews/story.rhiz?timestamp=20040308>
http://nathanielstern.com/oldblogs/2004_03_07_oldblogs.html#1078765847004533
<http://groups.msn.com/CyberspaceMegaBrains>
<http://www.ostili.splinder.it>
<http://www.yougenics.net/griffis/>
<http://www.culturekitchen.com/archives/000555.html>
<http://www.dronecolony.com>
<http://www.somedancersandmusicians.com/solidarity.html>

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Info / linking blogs / bbs

http://www.yah.org.uk/forum/threads.php?id=668_0_2_0_C
<http://www.horriblemonster.com/link/>
<http://www.reflex.cz/Clanek27815.htm>
<http://www.reflex.cz/>
<http://web.syr.edu/~sahovend/car530/>
<http://www.abstractdynamics.org/>
<http://www.gympl.com/>
<http://www.pravednes.cz/>
<http://lovebot.free.fr/joywar.php>
<http://www.stayfreemagazine.org/public/>
<http://lists.ibiblio.org/pipermail/stayfree/2004-March/000072.html>
http://www.sensoryresearch.com/~quahogs/weblog/2004_03_01_archive.html#108018492438227927

<http://www.artthrob.co.za/04apr/project.html>
<http://www.abstractdynamics.org/>
<http://www.google.com/search?q=cache:eTG77Vg7WiwJ:ecal-mid.kaywa.com/p113.html+joywar&hl=en&ie=UTF-8>
<http://www.bigcrow.com/anna/journal/mar04.html>
http://www.google.com/search?q=cache:5Y92_9I76ngJ:www.betacity.de/index.php%3Foption%3Dweblinks%26topid%3D0+joywar&hl=en&ie=UTF-8
<http://www.vilaweb.com/indextext.html>
<http://www.artsjournal.com/man/archives20040301.shtml#74180>
<http://www.detritus.net/>
<http://www.netartreview.net/weeklyFeatures/molotovwebring.html>
<http://www.consumerwhore.biz/index.cfm?contentID=461>
<http://thedavidlawrenceshow.com/001784.html>
<http://dmsbeijing.omweb.org/modules/news/article.php?storyid=4>
http://216.239.51.104/search?q=cache:KBfEh8YazwJ:www.tvkultura.ru/announce.cfm%3Fma_id%3D1019+joy+garnett&hl=en&ie=UTF-8
http://boingboing.net/text/2004_03_14_guestbar.html
<http://boingboing.net/>
<http://www.newbrainframes.org/index.php?gg=28&ttd=2>
<http://www.kjj.it/dams/risorse/copyright.php>
<http://www.artsjournal.com/man/>
http://www.netartreview.net/logs/2004_03_07_backlog.html
http://www.livejournal.com/users/choiresicha_rss/80368.html
<http://www.blogigo.de/wiredtexts/entry/6862>
<http://www.anti-chambre.net/blog//archive.php?id=75>
<http://void.nothingness.org/archives/situationist/display/12857?PHPSESSID=b71f5e5381634e5515cc69a67fec36f6>
<http://x-arn.org/bim/>
<http://www.indiesite.com/>
<http://www.choiresicha.com/>
<http://www.rekombinant.org/>
<http://dongresin.katgyrl.com/>
<http://www.thing-net.de/cms/wap-d.php>
<http://radiofreeblogistan.com/>
<http://www.vojir.com/other/exf-rynyvayzy.html>
<http://bbs.thing.net/>
http://www.firstpulseprojects.net/riot_2003/newyorker2004.html

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Joy Garnett: Selected Lectures & Articles on Appropriation + Open Source Culture

Harper's Magazine, February 2007

Portfolio (pp.53-58):

Joy Garnett and Susan Meiselas: [ON THE RIGHTS OF MOLOTOV MAN: Appropriation and the art of context](#) [PDF]

[PAINTING + OPEN SOURCE](#) (RealPlayer: panel + Q+A, in 2 parts)

Open Source: On the Line

panel organized by Rhizome at the [Vera List Center for Art + Politics at The New School](#), Dec. 4, 2006

[See slides of this talk;](#)

Webcasts: [part 1](#); [part 2](#)

COMEDIES of FAIR USE: A Search for Comity in the Intellectual Property Wars

April 28-30, 2006

[New York Institute for the Humanities at NYU](#)

13 minute talk (Quicktime): <http://newsgrist.typepad.com/comediesoffairuse/>

Slides from talk: <http://www.flickr.com/photos/newsgrist/sets/72057594138438448/>

Discussion on Laura Quilter's blog: [derivative works: comedies & tragedies of fair use](#)
and

at Mike Madison, [madisonian.net](#): [The Drama of Fair Use](#)

Blogging + The Arts 2: Hosted by Rhizome at The New Museum

Tuesday, May 17, 2005, 6:30 p.m.-8:00 p.m.
New Museum of Contemporary Art / Chelsea
556 West 22nd Street

Rhizome.org Director of Technology [Francis Hwang](#) will lead a panel discussion on *Blogging and the Arts*. This panel, the second in a series hosted by Rhizome.org, includes painter and web-artist [Chris Ashley](#), painter [Joy Garnett](#), artist and programmer [Patrick May](#), and writer [Liza Sabater](#). The discussion will address issues such as ways that artists are using blogs to distribute their own work, and the influence of blogging culture on political issues of interest to those in the arts. [[Thumbnail Archive of Joywar](#)]

New York Foundation For the Arts: NYFA Current - straight from the artists, April 20, 2005, Vol.14, no.8

In Their Own Words: JOY GARNETT

Between Yahoo.com slide shows, 24-hour television news, and competing tabloid newspapers, we've become a culture that's accustomed to the sensations of media imagery. Here Joy Garnett describes how she transforms news photographs into paintings, a slowing-down process to counter what she sees as our culture's mal-absorption of images related to technology, surveillance and war. [Read article](#)

Between 0 and 1: Digital Rights and the Future of Art Images Online
College Art Association, Atlanta Conference 2005, Publications Committee Session panel

February 17, 2005, 12:30-2:00pm

Speakers: Chair, Eve Sinaiko, CAA; Christine Kuan, Editor, Grove Art Online (Oxford Univ. Press); Max Marmor, The ARTstor Project; Ted Feder, Artists Rights Society; Joy Garnett, Artist.

Cultural Politics, Volume 1, Issue 1, March 2005; [available online](#) (free pdf download)

Edited by [John Armitage](#), [Douglas Kellner](#), [Ryan Bishop](#). Contributors: Andrew Ross, Jean Baudrillard, Paul Virillio, George E. Marcus, Jodi Dean, Richard Kahn & Douglas Kellner, Marc Poster, Joss Hands. Published by Berg:

http://www.bergpublishers.com/uk/culture/culture_about.htm

Field Report: "Follow the Image," by Joy Garnett

[download article \[pdf\]](#)

ABSTRACT: New York artist Joy Garnett outlines her methods as a painter who works from sampled or found images. She discusses her relationship to her sources, which have included science photographs, declassified military and news media imagery. She describes the challenges she has encountered while working with different types of source material: from technical obstacles (invisible phenomena that require lenses and other optical devices) to socio-political mediation (government secrecy and the search for declassified imagery), to legal encumbrances (accusations of "piracy" and copyright infringement regarding a sampled image). Garnett explains her sense of the continued relevance and critical potential of art in light of these challenges, specifically the uses of painting in an age of mass production and digital technology.

Painting Mass Media & the Art of Fair Use

For streaming video (QuickTime) of my September '04 lecture please visit the Art & Technology lecture series at Columbia's School of Art Digital Media Center:

<http://www.columbia.edu/cu/arts/dmc/docs/lectureseries.html>

or go directly to the lecture:

http://www.ccnmtl.columbia.edu/itc/soa/dmc/joy_garnett/index.html

"Steal This Look," Intelligent Agent, Intellectual Property Issue, Vol.4, no.2 (Summer 2004)

This is a short piece about *Joywar* written very shortly afterwards:

http://www.intelligentagent.com/archive/Vol4_No2_ip_garnett.htm

http://www.intelligentagent.com/archive/IA4_2ip_steallook_garnett.pdf

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Addenda

§ 107. **Limitations on exclusive rights: Fair use**

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

"**Toward a Fair Use Standard**," 103 Harv. L. Rev. 1111 (1990), by Judge Pierre Leval [\[source\]](#)

"The use must be productive and must employ the quoted matter in a different manner or for a different purpose from the original. A quotation of copyrighted material that merely repackages or republishes the original is unlikely to pass the test; in Justice Story's words, it would merely "supersede the objects" of the original. If, on the other hand, the secondary use adds value to the original -- if the quoted matter is used as raw material, transformed in the creation of new information, new aesthetics, new insights and understandings -- this is the very type of activity that the fair use doctrine intends to protect for the enrichment of society.

Transformative uses may include criticizing the quoted work, exposing the character of the original author, proving a fact, or summarizing an idea argued in the original in order to defend or rebut it. They also may include parody, symbolism, aesthetic declarations, and innumerable other uses."

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General Information + Articles

Lawrence Lessig's site, Stanford lawyer and author of "Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity" (Penguin 2004)
<http://www.lessig.org>

Righting Copyright: Fair Use & "Digital Environmentalism"

By Robert S. Boynton, Book Forum, Feb/Mar 2005
This is a brilliant article that promotes the various movements in copyright reform, including the strategy of the "copyright misuse" doctrine as a way to bolster fair use.

Fundamentals of Intellectual Property

(Copyright + Trademark law – PDF files)
Astrachan Gunst & Thomas PC
http://www.aggt.com/resources/funda_ip.html

Creative Commons

<http://creativecommons.org/>

Stay Free!

a print magazine focused on issues surrounding commercialism and American culture.
<http://www.stayfreemagazine.org/>

Detritus

a web site "about fine art and pop culture. Lofty postmodern theory and grassroots resistance."
<http://www.detritus.net/>

Illegal Art

Freedom of Expression in the Corporate Age
<http://www.illegal-art.org/>

Grey Tuesday – Free the Grey Album

<http://greytuesday.org/>

VCE Art - Borrowed Elements in Art

<http://www.vceart.com/explore/ideas/page.2.html>

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Post script

Original photo by Susan Meiselas, c.1979

<http://www.magnumphotos.com/>

Context of original photograph: NICARAGUA (published 1981)

http://www.magnumphotos.com/c/htm/FramerT_MAG.aspx?Stat=Portfolio_DocThumb&V=CDocT&E=2K7O3RNNPP0&DT=ALB

“Molotov” painting (2003) Oil on canvas, 70 x 60 inches (Mirror sites)

<http://www.artnet.com/Magazine/reviews/green/green3-17-6.asp>

<http://www.wallcloud.com/molotov.html>

<http://www.twhid.com/misc/joy/molotov/>

<http://linkoln.net/molotov.gif>

<http://www.leewells.org/joy/Molotov.html>

B & W photo, cropped, uncredited

(found while searching for URL of fragment)

http://www.haroldpinter.org/politics/politics_america.shtml

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