**Week 42: 18 - 22 October**

**Abstract:**

Contemporary art's relation to copyright is paradoxical. On the one hand, copyright gives artists a claim of ownership over their own work. On the other hand, it enforces a type of individual, original authorship that poorly fits contemporary artistic practices which are often collaborative and building on the works of others. At least since the 1960s, numerous artists and activists have explored this paradox in their works, variously coming into conflict with copyright, exposing the weakness of its conceptual foundations in the digital domain, instigating collective anti-copyright practices, and, recently, through blockchain-based mechanisms (NFT auctions) pioneered notions of ownership that seem to abandon copyright entirely.

In this module, we approach copyright not as a fixed legal system but as a contested cultural domain in which artists play a key role in developing new models for the 21st century. We will focus on artists such as Andy Warhol, Jeff Koons, Richard Prince, Cornelia Sollfrank, Elaine Sturtevant, and on movements such as copy-left and look into the strange case of the model Emily Ratajkowski who sold ownership rights to an image of herself she probably doesn't own.

**Course requirements:**

Attendance (80%)

Participation in reading, discussions, and group presentations

https://pad.vmk.zhdk.ch/paradoxes_of_copyright

Submission of a very short paper (1-2 pages), with a focus on personal interests in relation to the theme of the module.

# Monday: Basics of Copyright Law & Notions of Authorship

**Swiss Copyright law**

Bundesgesetz über das Urheberrecht und verwandte Schutzrechte

Art. 2: "Werke sind, unabhängig von ihrem Wert oder Zweck, geistige Schöpfungen der Literatur und Kunst, die individuellen Charakter haben."

Art. 6: "Urheber oder Urheberin ist die natürliche Person, die das Werk geschaffen hat."

Art. 10: "Der Urheber oder die Urheberin hat das ausschliessliche Recht zu bestimmen, ob, wann und wie das Werk verwendet wird."

Art. 11: Der Urheber oder die Urheberin hat das ausschliessliche Recht zu bestimmen; (a) ob, wann und wie das Werk geändert werden darf.

Background: History of Copyright Wikipedia

**When a photo is not "individual"**

- Gisela Blau: Bild von Christoph Meili, 1997
- Bundesgrichtsurteil: Gisela Blau Guggenheim vs BBC, 19. April 2004
- Lichtbildschutz, URG Revision, 1. April 2020 (Artikel 2 Abs. 3bis)

Kunstfreiheit.ch

**Reading:**

Ortland, Eberhard. 2008. “The Aesthetics of Copyright:” In Proceedings of the XXII World Congress of Philosophy, 227–32. Philosophy Documentation Center. https://doi.org/10.5840/wcp22200811225

PDF

Stalder, Felix. 2014. “Urheberrecht - Wenn das Recht kunstfeindlich wird.” Kunstbulletin, 2014. https://www.artlog.net/de/kunstbulletin-1-2-2014/urheberrecht-wenn-das-recht-kunstfeindlich-wird.

**Group Readings:**

Woodmansee, Martha. 1992. “On the Author Effect: Recovering Collectivity.” Cardozo Arts & Entertainment Law Journal 10: 279–92

PDF

Barthes, Roland. 1967. “The Death of the Author.” Aspen, 1967. https://www.ubu.com/aspen/aspen5and6/index.html

Foucault, Michel. 1998. “What Is an Author.” In Aesthetics, Method, and Epistemology, edited by James D. Faubion, 205–22. Essential Works of Foucault 1954-1984, Vol. 2. New York: New Press. https://www.sas.upenn.edu/~cavitch/pdf-library/Foucault_Author.pdf

# Tuesday: Cornelia Sollfrank and the paradoxes of distributed authorship

Works:

Net.Art Generator

Flowers:

Patricia Caulfield Hibiscus Blossoms (1964) – Andy Warhol Flowers (1964) – Elaine Sturtevant Warhol Flowers (1967) – Cornelia Sollfrank. Anonymous Warhol Flowers (2004 -).

Legal Perspective, 2004

I don't know, 1968/2006

**Readings Net.Art Generator:**

Sollfrank, Cornelia, and Winnie Soon. 2021. Fix My Code. Berlin: EECLECTIC. Introduction & Chapter 3, Ebook Creative Commons: Attribution-ShareAlike 4.0 International (CC BY-SA 4.0)

Jacob Lillemose. 2009. Keep on Generating. On Cornelia Sollfrank's Multiple Authorships. In: Himmelsbach, Sabine (ed) Expanded original: Cornelia Sollfrank [anlässlich der Ausstellung “Cornelia Sollfrank. Originale und Andere Fälschungen”, Edith-Ruß-Haus für Medienkunst, Oldenburg, 24. Januar bis 19. April 2009]. Ostfildern: Hatje Cantz.

Sollfrank, Cornelia. 2010. Anonymous Warhol Flowers: Urheberrecht als Material und Gegenstand der Kunst. Irights.Info

**Zoom Conversation:**

Cornelia Sollfrank

# Wednesday: Appropriation: Motives and Strategies

Jean-Luc Godard: It’s not where you take things from — it’s where you take them to.“ (as quoted by Jim Jarmusch)

**Elaine Sturtevant**

Heartney, Eleanor, and Eleanor Heartney. 2014. “Re-Creating Sturtevant.” ARTnews.Com (blog). November 1, 2014. https://www.artnews.com/art-in-america/features/re-creating-sturtevant-63492/.

Phelan, Richard. 2015. “The Counter Feats of Elaine Sturtevant (1924-2014).” E-Rea, no. 13.1 (December). https://doi.org/10.4000/erea.4567.

“Hans-Ulrich Obrist in Conversation with Elaine Sturtevant.” 2008. https://032c.com/elaine-sturtevant.

**Jeff Koons**

- **Banality Series**, 1988 Tate Modern
- - Rogers vs Koons (1992)
- Artist Rights: SIGNIFICANCE: ROGERS V. KOONS
- NYT Article on the case

**Fair Use (US Copyright)** Copyright and Fair Use (Standford Library): What Is Fair Use? | Measuring Fair Use: The Four Factors

**Richard Prince**

- Cowboys, 1989 ,Untitled (Cowboy): Behind Richard Prince's Photographs & Appropriation, Time Magazine, 2016, 14 Min
- "Canal Zone." Gagosian Galery, 2008
- Patrick Carriou. 2000. Yes Rasta.
- Prince vs. Carriou, The question of fair use The ‘Transformation’ of Fair Use After Prince v. Cariou 2014
- Goldsmith, Kenneth. 2012. “Richard Prince’s Latest Act of Appropriation: The Catcher in the Rye.” Poetry Foundation
- New Portraits Gagosian Gallery 2014
- Review of New Portaits. Brooklyn Rail, 2014

- Richard Prince Disowns His Ivanka Trump Portrait, Possibly Increasing Its Value. Hyperallergic, Jan. 2017

Harrison, Nate. 2015. “In The Wake of Richard Prince and Instagram, Revisiting Copyright Law, Appropriation and History.” AMERICAN SUBURB X (blog). June 4, 2015. https://americansuburbx.com/2015/06/in-the-wake-of-richard-prince-and-instagram-revisiting-copyright-law-appropriation-and-history.html

Nate Harrison Can I Get An Amen?, 2004

**Further Reading:**

Metropolitan Museum of Art, The Pictures Generation, 1974–1984, 2009

- Jerry Saltz Great Artists Steal, ArtNet, 2009

Evans, David, ed. 2009. Appropriation. Documents of Contemporary Art. London : Cambridge, Mass: Whitechapel ; MIT Press. Read Introduction. p.12-23

Replicas. Originality on Trial in and around Olivier Mosset’s Collection. 30.06 –29.10.2017. Musée Des Beaux-Arts, La Chaux-De-Fonds. Catalogue

## Thursday: Beyond Coypright, I

Free Licences and Commons

- GNU GPL and the four freedoms
- Free Art Licence
- Creative Commons

Sollfrank, Cornelia, Felix Stalder, and Shusha Niederberger, eds. 2021. Aesthetics of the Commons. Zurich / Berlin: Diaphanes. Read: Introduction: p. 11 - 33 https://www.diaphanes.net/titel/aesthetics-of-the-commons-6419

Furtherfield

~~Kirb Filby~~ Everything is a Remix~~, Video Series Sonvilla-Weiss, Stefan. 2015. “Good Artists Copy, Great Artists Steal. Reflections on Cut-Copy-Paste Culture.” In The Routledge Companion to Remix Studies, edited by Eduardo Navas, Owen Gallagher, and Xtine Burrough, 54–67. New York: Routledge, Taylor & Francis Group.~~

PDF

Stalder, Felix. 2009. “9 Thesen Zur Remix Kultur.” Irights.Info, June 2009. https://irights.info/wp-content/uploads/fileadmin/texte/material/Stalder_Remixing.pdf

## Thursday Afternoon und Friday morning: Brave new Crypto-World: NTF as Ownership without copyright

Catlow, Ruth, Marc Garrett, Nathan Jones, and Sam Skinner, eds. 2017. Artists Re:Thinking the

Blockchain. England] : [London: Torque Editions ; Furtherfield.

What is an NFT

- What is the blockchain? And why is not Bitcoin?
- What is Ethereum and what is a smart contract?
- What is a token and when is it non-fungible?
- What is the difference between “contract” and “artwork”?

**Introductory materials** NFTs, explained. The Verge, August 2021
https://www.theverge.com/22310188/nft-explainer-what-is-blockchain-crypto-art-faq

Technical Specs:

- https://ethereum.org/en/nft
- https://eips.ethereum.org/EIPS/eip-721
- https://nftschool.dev

NFT Market Place

- https://niftygateway.com/

On the difference between contract (coin) and artwork

- YOUR MILLION-DOLLAR NFT CAN BREAK TOMORROW IF YOU’RE NOT CAREFUL, The Verge March 2031
- Signal’s founder is trolling with an NFT that’ll turn to shit if you buy it, The Verge, Oct. 2021

Kenny Schachter on NFT

- https://youtu.be/VC_faFQrzG8
- https://news.artnet.com/news-pro/kenny-schachter-july-nft-opus-1990514

Full spectrum critique of NFT

- https://everestpipkin.medium.com/but-the-environmental-issues-with-cryptoart-1128ef72e6a3

**The twisted case of Emily Ratajkowski**

- How many layers of copyright infringement are in Emily Ratajkowski’s new NFT? The Verge, 21.03.2021
- Emily Ratajkowski Buying Myself Back When does a model own her own image The Cut, 15.09.2020

**The even more, and differently twisted case of Beeple**

- https://amycastor.com/2021/03/14/metakovan-the-mystery-beeple-art-buyer-and-his-nft-defi-scheme/
- https://twitter.com/jonty/status/1372163423446917122

# Friday

How Crypto Art Might Offer Artists Increased Autonomy
https://hyperallergic.com/626274/nft-crypto-art-artist-autonomy/

Financialization of Art

https://www.masterworks.io/

**Zoom Conversation**

with Ruth Catlow on NFT, Crypto etc.

Afternoon: Individual/Group writing.

From:
https://wiki.zhdk.ch/fs/ - **Felix Stalder, Prof. DfA**

Permanent link:
**https://wiki.zhdk.ch/fs/doku.php?id=art_the_paradoxes_of_copyright&rev=1634716785**

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