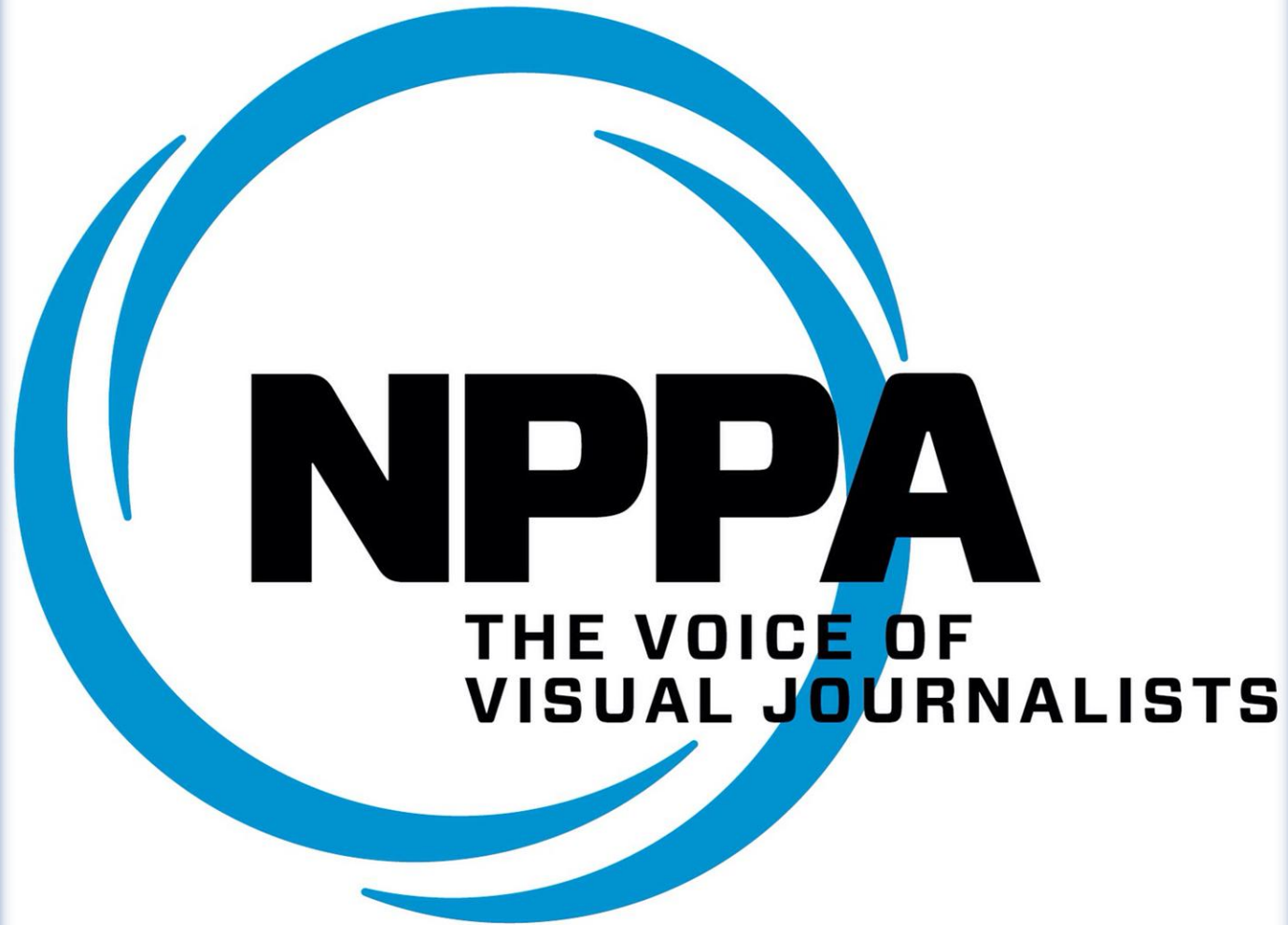




IF YOU THOUGHT COPYRIGHT WAS COMPLICATED
WAIT 'TIL YOU SEE WHAT
ARTIFICIAL INTELLIGENCE (AI) DOES!

Mickey H. Osterreicher

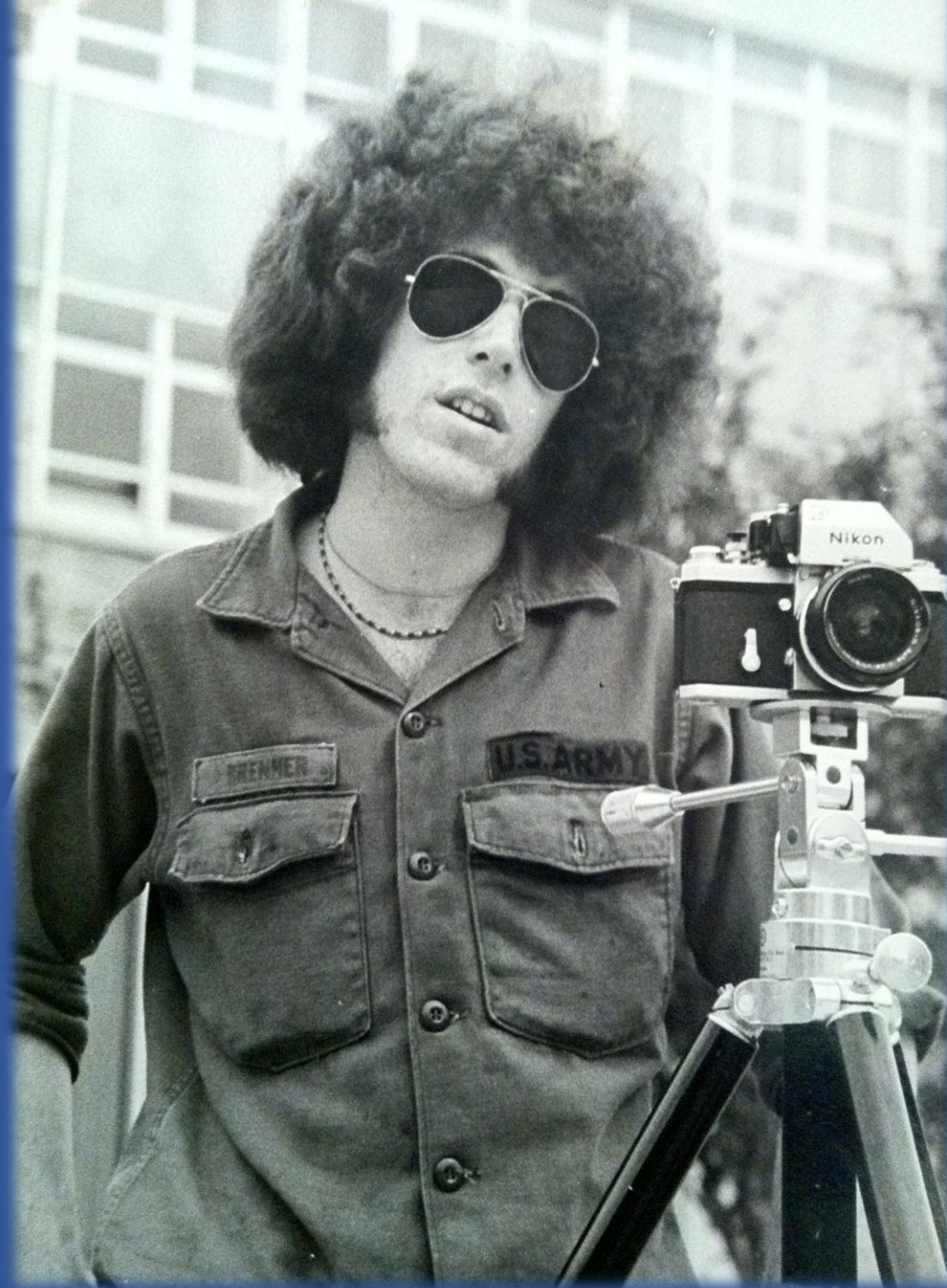
General Counsel

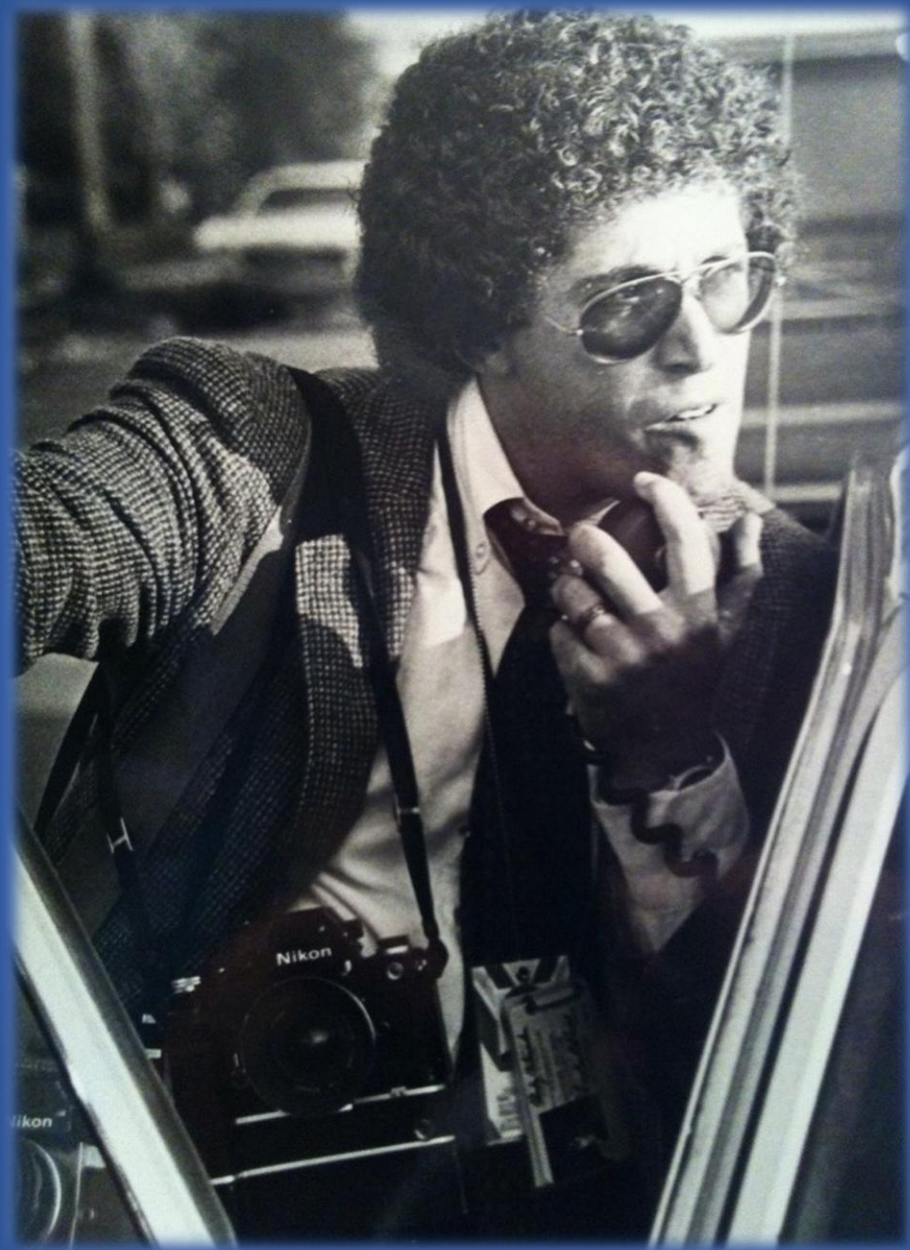
National Press Photographers Association (NPPA)

lawyer@nppa.org

@nppalawyer

© 2024











[The Congress shall have Power . . .]

To promote the Progress of Science and useful Arts,
by securing for limited Times to Authors and Inventors
the exclusive Right to their respective
Writings and Discoveries.

U.S. Constitution, Article I, Section 8, Clause 8

17 U.S.C. § 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.

17 U.S.C. § 107. Limitations on exclusive rights: Fair use

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.

© QUIZ

In the US

In order to have copyright protection

You must place
the copyright symbol, ©
on your work?

Under the Fair Use provision
to U.S. Copyright Law
you can always use content
for any type of educational purpose?

Copyright protection lasts
for 70 years
after
an author's death?

Protection of your work under
U.S. Copyright Law
affords you that same protection
in 165 other countries?

Libraries, archives & museums
are exempt
from U.S. copyright law?

You do not need to register
a work with the
United States Copyright Office
to have copyright protection?

When you purchase a photograph,
you own all
copyrights
in that image?





Better the sexual deprivations of Prince than the sexual deprivations of Michael Jackson, declares TRISTAN VOY.
Plus a special portrait for *lunatic* by ANNE WARHOL.

A few days after Mary Lou Retton won a gold medal at the Los Angeles Olympics, she appeared on *The Tonight Show* before Jean Renoir, who was credited as referee. The arrogant asked the athlete about her new property. The athlete replied that she was the proud owner of a new car. "A little red Corvette," she exclaimed, with the most wholesome smile in the world. Suddenly one was filled with alarm. Had American popular culture played a dirty trick on Mary Lou? It had, if her reference was to Prince. "Little Red Corvette," you see, is a ballad of broken hearts and dirty condoms which Prince recorded a few years ago. "You're the kind of person / That believes in making out / Love 'em and leave 'em fast / I guess I must be dumb / 'Cuz I had a pocket full of nerves / Trojan and some of them used / But it was Saturday night / I guess that makes it alright."

Who lends to such sentiments, and who does not, is not the point. The point is that escape from Prince is no longer possible. Finally he has arrived. The evidence is everywhere. The masses are good. His music is some of the tightest and most turned rock 'n' roll ever made. The movie *Purple Rain* is a crude-sense classic, an American success in *The Harder They Come*. The myths are all the mighty ones: young rebel, lonely artist, hitman (child-murderer), mysterious stranger. There is even a motorcycle. From Minneapolis, Minnesota, here comes another tough but tender, violent but vulnerable American hero.

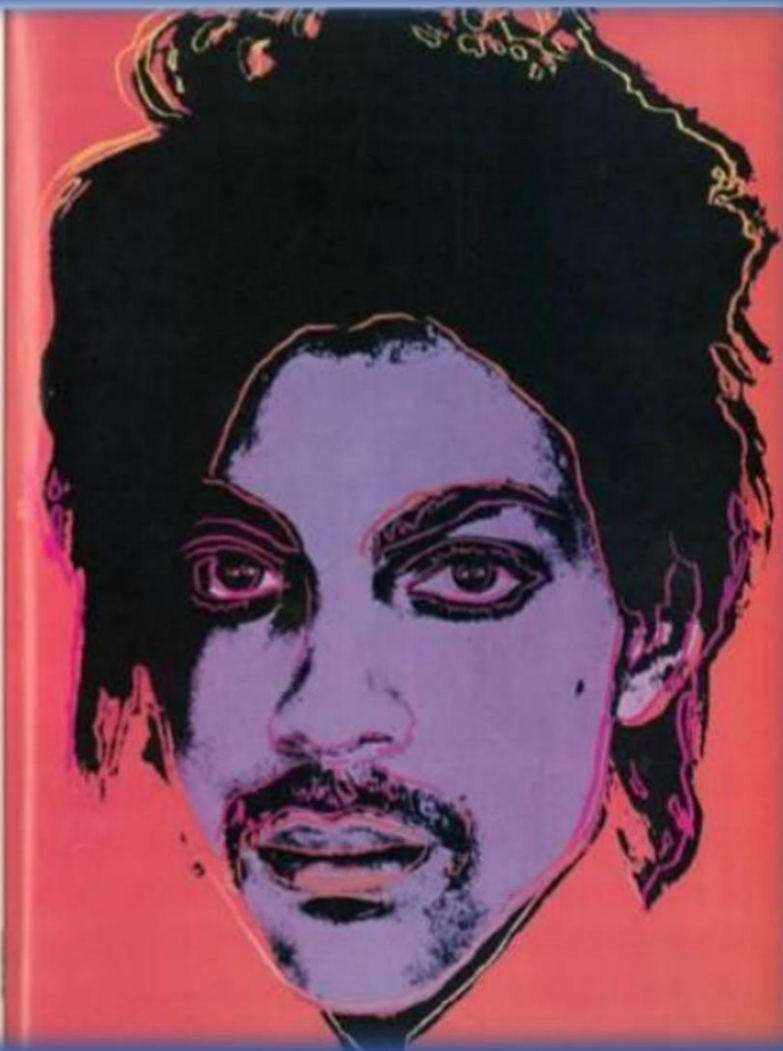
Well, not quite. Look again. "Rude boy," he calls himself. The name suits. He dresses as a dandy or as a stud, in gleeves and ruffles and a long lurid purple doublet, or in a sloping black codpiece and a cross. He poses against a backdrop of helicopters, or shining ready as a bull. He sings, in a kind of filthy falsetto, about sexual climax ("...I wanna be your lover / I wanna be the only one that makes you come... sweating"), sexual confusion ("Bandit ran? you understand? / Bandit it's better with a man"), sexual cross-dressing ("When you were mine / I used to be

you wear all my clothes"), and sexual contradictions ("I never was the kind to make a fool / When he was there / Slipping between the toes of me"). There are other contradictions, lots of them, and enough to sometimes irritate, teasing and turning on the hard black amplifiers, until the contradictions conclude with what used to be called, when Nipponki did it at the end of *L'après-midi d'un Faune*, an automatic movement. Indeed, he looks rather like a faun—like body, satin skin, smoldering lips—until you see the eyes, and the mustache that has not grown it, and the gut. They are cold and they are mean.

Is this coarse creature really the favorite of American popular culture? Wait until Jerry Falwell hears. There will be hell to pay; and the apocalyptic weekend might have a point. In fact, the protests have already begun—from liberals, who generally tend not about the late first. There are murmurings about naughty Prince, it is said, have women. No doubt he does, the sexual style he exemplifies is primarily an expression of anger. In his music, women are beat against their will. In his movies, they are beaten and moved into the trash (This is not the Minneapolis of Mary Tyler Moore.) There is no doubt, if it is the politics of culture that you want, that this inner-city saint is a perfect star for the great era of American reaction that is upon us. The re-dignification of women that John Travolta began on the backseat of a car in *Saturday Night Fever* has, well, climaxed in the songs and the movies of Prince.

But have politics too much politics and there is no mind for pleasure. Anyway, the path to pleasure is tragically not pretty. One woman's misogyny may be the image of another woman's desire. And there have been known to hangar for those who hate them, too. There is a museum of spiritual authenticity in abuse. Better the sexual deprivations of Prince than the sexual deprivations of Michael Jackson. (Prince will never find love among parents.) His single-mindedness about sex means that he is serious about (Continued on page 135)

PURPLE FAME





SPECIAL
COMMEMORATIVE
EDITION

THE GENIUS OF
PRINCE

RARE
INTERVIEWS

DEEP INSIDE
PAISLEY PARK

THE ORIGIN OF ♀

HIS GREATEST
PERFORMANCES

PRINCE
ROGERS
NELSON
1958-2016

CONDÉ NAST
SPECIAL EDITIONS

DISPLAY UNTIL AUGUST 15, 2016



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE ANDY WARHOL FOUNDATION FOR THE VISUAL
ARTS, INC.,

Plaintiff,

-against-

LYNN GOLDSMITH AND LYNN GOLDSMITH, LTD.,

Defendants.

Civil Action: _____

COMPLAINT

Jury Trial Demanded

Plaintiff The Andy Warhol Foundation for the Visual Arts, Inc., by its attorneys Boies Schiller Flexner LLP, for its Complaint against Defendants Lynn Goldsmith and Lynn Goldsmith Ltd. (collectively, “Defendants”), alleges as follows:

NATURE OF THE CASE

1. This is a civil action to protect the works and legacy of Andy Warhol, one of the most celebrated American artists of the 20th Century.

Andy Warhol Foundation for the Visual Arts, Inc. v. Lynn Goldsmith, et al.
598 U.S. ____ (2023)

Procedural Posture

Complaint for Declaratory Judgment filed April 7, 2017

Summary judgement for AWF (petitioner,) 382 F.Supp.3d 312 (S.D.N.Y., 2019)

Reversed, 992 F.3d 99 (2nd Cir., 2021);

Affirmed 11 F.4th 26 (2nd Cir., 2021)

Cert granted, 596 U.S. ____, (2022)

Argued October, 12, 2022

Decided May 18, 2023

Second Circuit affirmed.

No. 21-869

In the
Supreme Court of the United States

THE ANDY WARHOL FOUNDATION FOR THE VISUAL
ARTS, INC.,

Petitioner,

v.

LYNN GOLDSMITH AND LYNN GOLDSMITH, LTD.,

Respondents.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

BRIEF FOR PETITIONER

AWF v Goldsmith

Question Presented:

Whether a work of art is “transformative” when it conveys a different meaning or message from its source material (as this Court, the 9th Circuit, and other courts of appeals have held), or whether a court is forbidden from considering the meaning of the accused work where it “recognizably deriv[es] from” its source material (as the Second Circuit has held).

AWF v Goldsmith

AWF claims that the Warhol image presents a different vision of Prince as a celebrity icon, compared to the vulnerability that's central to the original photograph.

Moreover, the market for prints of Goldsmith's photographs is completely different than that of Warhol silkscreens, which routinely sell for millions.

No. 21-869

In the Supreme Court of the United States

ANDY WARHOL FOUNDATION
FOR THE VISUAL ARTS, INC., PETITIONER

v.

LYNN GOLDSMITH, ET AL.

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT*

**BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING RESPONDENTS**

AWF v Goldsmith

United States Amicus Brief

USCO: If Warhol's work is considered transformative,
then “countless secondary uses that currently require licensing
would become presumptively fair,”

“Copying ‘to get attention or to avoid the drudgery in working up
something fresh’ is likely infringing.”

Citing Campbell v. Acuff-Rose Music, 510 U.S. 569 (1994).

No. 21-869

In the
Supreme Court of the United States

THE ANDY WARHOL FOUNDATION
FOR THE VISUAL ARTS, INC,

Petitioner,

v.

LYNN GOLDSMITH AND LYNN GOLDSMITH, LTD.,

Respondents.

On Writ of Certiorari to the
United States Court of Appeals for the Second Circuit

BRIEF OF AMICI CURIAE
AMERICAN SOCIETY OF MEDIA PHOTOGRAPHERS, INC.,
NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION,
AMERICAN PHOTOGRAPHIC ARTISTS, JOINED BY
NORTH AMERICAN NATURE PHOTOGRAPHY ASSOCIATION
AND GETTY IMAGES (US), INC. IN SUPPORT OF RESPONDENTS

AWF v Goldsmith

ASMP/NPPA Amicus Brief

“The fair use defense was never meant to give infringers a pass so long as they claim some new subjective ‘meaning or message’ in their derivative use regardless of how it is used,”
“Rather, any purported new meaning or message is only relevant in the context of a qualitatively different purpose or use than that of the original.”

“Fair use is not designed to protect lazy appropriators.”

Citing Brammer v. Violent Hues Prods., LLC, 922 F.3d 255 (4th Cir. 2019)

AWF v Goldsmith

37 Amicus briefs point to AWF's untenable position on transformative use – a few key takeaways:

AWF and its amici promote a misguided test for transformative use that has no foundation in the Copyright Act.

Amicus briefs filed neutrally and in support of Goldsmith explain that court-created, overbroad interpretations of the transformative use doctrine override copyright owners' express statutory right to prepare derivative works.

AWF v Goldsmith

Many of the briefs warn against subjective assessments of what constitutes transformative use and instead urge for the adoption of a test based on how a work is reasonably perceived by an objective observer. A diverse range of amici detail the widespread harm AWF's test would have on licensing markets if adopted.



Argued October 12, 2022

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

**ANDY WARHOL FOUNDATION FOR THE VISUAL
ARTS, INC. *v.* GOLDSMITH ET AL.**

**CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SECOND CIRCUIT**

No. 21–869. Argued October 12, 2022—Decided May 18, 2023

AWF v Warhol 7-2

Majority: Sotomayor, joined by Thomas, Alito, Gorsuch, Kavanaugh, Barrett, Jackson

Concurrence: Gorsuch, joined by Jackson

Dissent: Kagan, joined by Roberts

Held:

Minor alterations to a copyrighted work are not transformative under fair use where altered work was used commercially for substantially similar purpose as original;

Courts must analyze the specific use of an allegedly infringing work before determining whether that use was transformative.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE ANDY WARHOL FOUNDATION FOR THE
VISUAL ARTS, INC.,

Plaintiff,

-against-

LYNN GOLDSMITH AND LYNN GOLDSMITH
CO.,

Defendants.

No. 17-cv-02532-JGK

**JOINT MOTION FOR ENTRY
OF FINAL JUDGMENT**

Plaintiff and Counterclaim-Defendant Andy Warhol Foundation For The Visual Arts, Inc. (“AWF”) and Defendants and Counterclaim-Plaintiffs Lynn Goldsmith and Lynn Goldsmith Co. (collectively, “Goldsmith”) jointly propose that this case conclude as follows:

1. As to Goldsmith’s copyright infringement counterclaim against AWF for its 2016 Condé Nast license, AWF and Goldsmith agree that Goldsmith is entitled to \$10,250 based on the 2016 Condé Nast license and the Supreme Court’s decision.

AWF's position is that the original creation of the Prince Series was fair use, and that nothing in the Supreme Court's opinion undermines that view. *See Andy Warhol Found. for Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508, 534 & n.9 (2023). In light of Goldsmith's confirmation above that she is not advancing claims for relief for the original creation of the Prince Series, AWF

Case 1:17-cv-02532-JGK Document 118 Filed 03/15/24 Page 2 of 3

agrees to withdraw its claim for declaratory relief.

agrees to withdraw its claim for declaratory relief.

3. The parties agree that Goldsmith is entitled to \$11,272.94 in taxable costs pursuant to Federal Rule of Civil Procedure 54 and Local Civil Rule 54.1. The parties further agree that they each will otherwise be responsible for their own costs, including attorneys' fees.

4. The parties therefore jointly request that the Court enter the accompanying proposed final judgment awarding Goldsmith \$10,250 against AWF for its 2016 Condé Nast license and \$11,272.94 in taxable costs.



HAÏTI, L'ÎLE MAUDITE

SPRÈS LE DÉCRET qui a interdit l'accès à l'île, le Secrétaire d'Etat au Développement a annoncé qu'il n'y avait plus de réfugiés.



DeMorgen

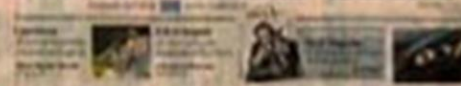


'Tienduizenden doden in Haïti'

Het Nieuwsblad



IERE DELLA SERA



diventata un cimitero

Il ruolo. Il premier, i morti forse sono più di centomila



De Standaard



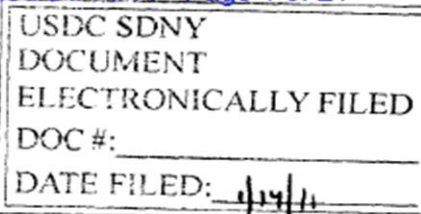
Haïti terug naar af

Maandvrijde aanval van de Haïtianen op de Amerikaanse ambassade in Port-au-Prince.



La Libre





UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
AGENCE FRANCE PRESSE, :

Plaintiff, :

10 Civ. 2730 (WHP)

-against- :

AMENDED MEMORANDUM & ORDER

DANIEL MOREL, :

Defendant, :

-against- :

GETTY IMAGES (US), INC., et al., :

Third-Party
Defendants. :

-----X

WILLIAM H. PAULEY III, District Judge:

Plaintiff Agence France Presse ("AFP") seeks a declaratory judgment that AFP did not infringe Defendant Daniel Morel's ("Morel") copyrights in certain photographs. Morel counterclaims against AFP alleging violations of the Copyright Act of 1976, 17 U.S.C. § 101 et seq., the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 1202, and the Lanham Act, 15 U.S.C. § 1125. Morel also brings similar third-party claims against Getty Images (US), Inc. ("Getty"), CBS Broadcasting, Inc. ("CBS"), ABC, Inc. ("ABC"), Turner Broadcasting System, Inc. ("TBS"), and unnamed AFP and Getty licensees (collectively, the "Third-Party

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
AGENCE FRANCE PRESSE,
Plaintiff,

-v-

DANIEL MOREL,
Defendant

-v-

GETTY IMAGES, INC., ET AL.,
Counterclaim
Defendants

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: **JAN 14 2013**

10 Civ. 02730 (AJN)

OPINION

PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-2021

LARRY G. PHILPOT,

Plaintiff – Appellant,

v.

INDEPENDENT JOURNAL REVIEW,

Defendant – Appellee.



Original photo



IJR's use

Fourth Circuit Finds No Transformative or Noncommercial Use of Ted Nugent Photo in Online Article

“To be sure, the article was not especially profitable for IJR... But the salient question is whether IJR stood to profit, not whether it was particularly successful at that venture.” – Fourth Circuit opinion

District Court's Transformative Use Finding Fails Under *Goldsmith's* Reasoning



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JONATHAN OTTO,

Plaintiff,

-against-

HEARST COMMUNICATIONS, INC.,

Defendant.
-----X

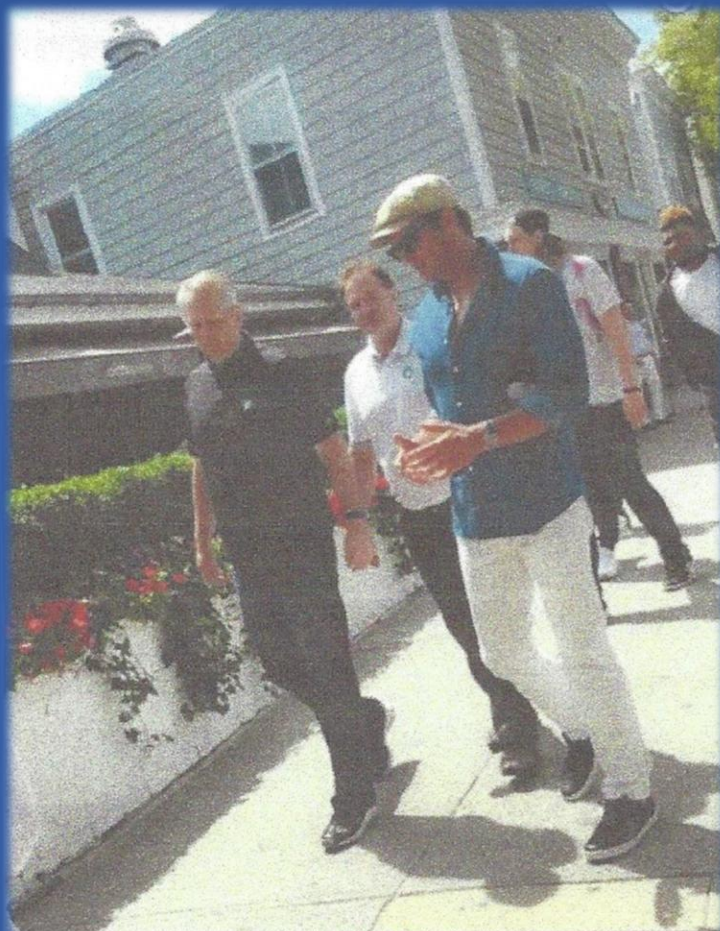
GREGORY H. WOODS, United States District Judge:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 12/10/2018

1:17-cv-4712-GHW

OPINION AND ORDER

Otto v. Hearst Commc'ns, Inc.,
1:17-cv-4712-GHW (S.D.N.Y. Jan. 1, 2020)



Celtics and Tom Brady roll thru to get Durant
#Hamptons

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUSTIN GOLDMAN,

Plaintiff,

-v-

BREITBART NEWS NETWORK, LLC,
HEAVY, INC., TIME, INC., YAHOO, INC.,
VOX MEDIA, INC., GANNETT COMPANY,
INC., HERALD MEDIA, INC., BOSTON
GLOBE MEDIA PARTNERS, INC., and NEW
ENGLAND SPORTS NETWORK, INC.,

Defendants.

X

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X

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: February 15, 2018

17-cv-3144 (KBF)

OPINION & ORDER

KATHERINE B. FORREST, District Judge:

Court ruled that, by embedding a tweet
containing a copyrighted photograph
in a webpage,
defendants violated the copyright owner's
exclusive display right.
explicitly rejected the “server test,”
first established over a decade ago by Ninth Circuit
in *Perfect 10 v. Google*

Goldman v. Breitbart News Network LLC et al., 302 F. Supp. 3d 585 (S.D.N.Y. 2018)

NO. 22-15293

In the United States Court of Appeals
for the Ninth Circuit



Alexis Hunley and Matthew Scott Brauer,

Plaintiff-Appellants,

v.

Instagram, LLC,

Defendant-Appellee.

On Appeal from the United States District Court
for the Central District of California

No. 3:21-cv-03778-CRB

Hon. Charles R. Breyer

**BRIEF OF AMERICAN PHOTOGRAPHIC ARTISTS, NATIONAL PRESS
PHOTOGRAPHER'S ASSOCIATION, AMERICAN SOCIETY OF MEDIA
PHOTOGRAPHERS, GRAPHIC ARTISTS GUILD, AND FOUR OTHER
PHOTOGRAPHY AND MEDIA LICENSING ORGANIZATIONS AS
AMICI CURAE IN SUPPORT OF PETITION FOR REHEARING *EN BANC***

Alexandria Division

Defendant.

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Civil Action No. 1-17-cv-01009
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)

MEMORANDUM OPINION

Brammer v. Violent Hues Prods., LLC,
Civil Action No. 1-17-cv-01009 (E.D. Va. Jun. 11, 2018)





PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1763

RUSSELL BRAMMER,

Plaintiff - Appellant,

v.

VIOLENT HUES PRODUCTIONS, LLC, Fernando Mico, Owner,

Defendant - Appellee.

Brammer v. Violent Hues Prods., 922 F.3d 255 (4th Cir. 2019)



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:12-cv-02550-WYD-KMT

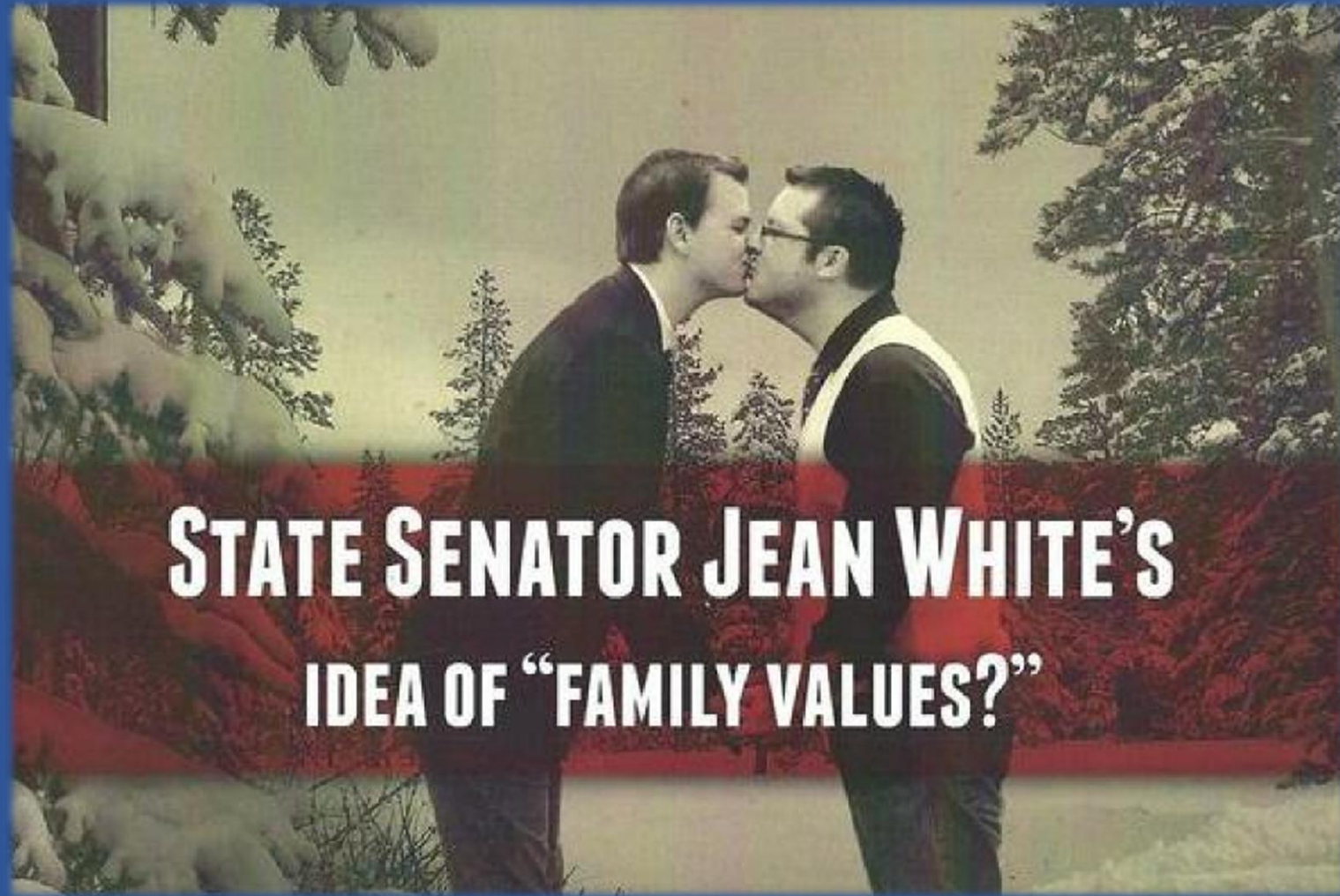
KRISTINA HILL,
BRIAN EDWARDS, and
THOMAS PRIVITERE,

Plaintiffs,

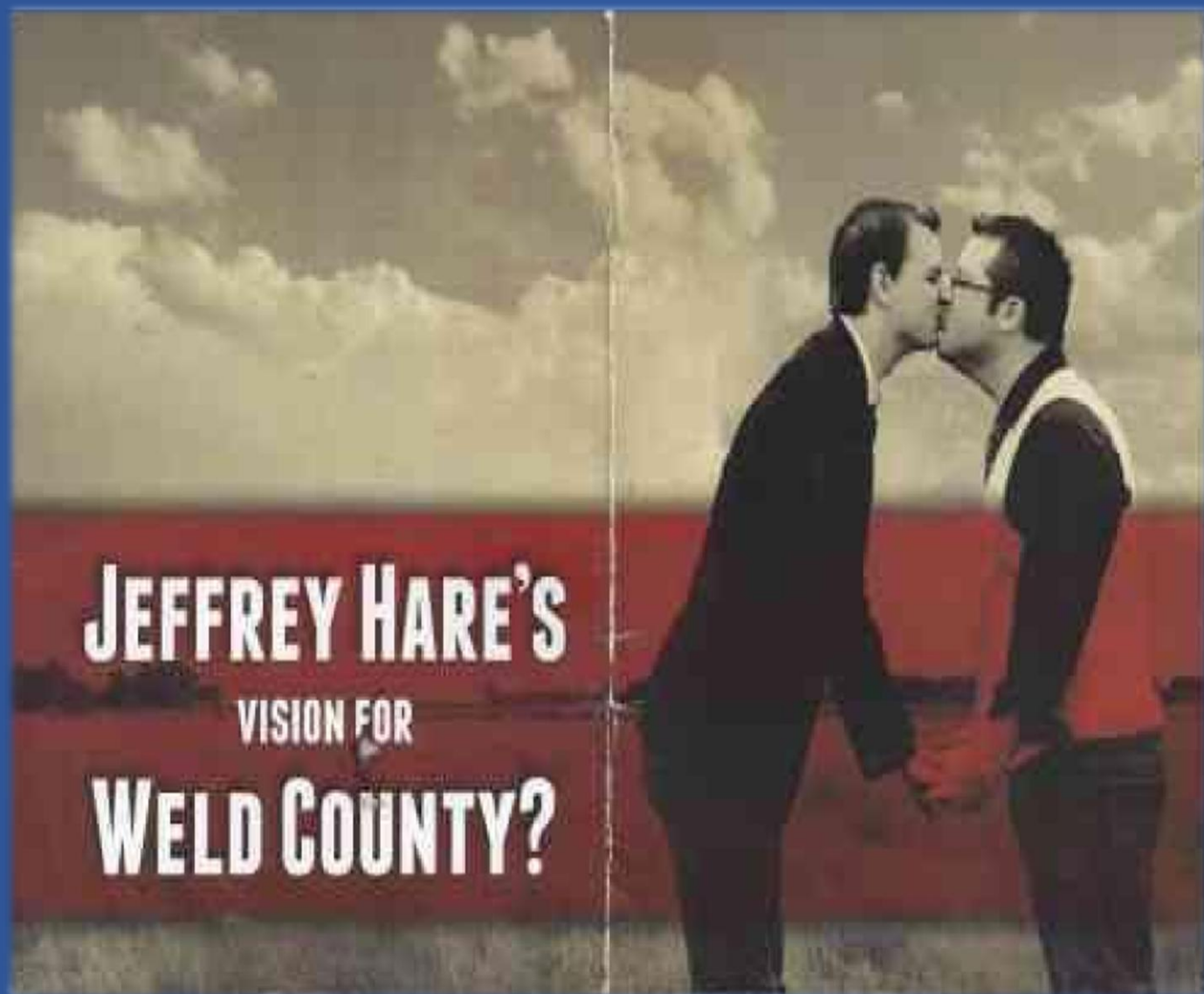
v.

PUBLIC ADVOCATE OF THE UNITED STATES,
NATIONAL ASSOCIATION FOR GUN RIGHTS,
ROCKY MOUNTAIN GUN OWNERS,
LUCIUS O'DELL,
ANDREW BROWN, and
DUDLEY BROWN,

Defendants.



**STATE SENATOR JEAN WHITE'S
IDEA OF "FAMILY VALUES?"**



Fair Use

17 U.S.C. § 107.

The fair use doctrine calls for
a “case-by-case” analysis.

Harper & Row, Publr., 471 U.S. at 549

“Fair use is a mixed question of law and fact.”

Id. at 560

(citing *Pacific & Southern Co. v. Duncan*, 744 F.2d 1490, 1495 n.8
(11th Cir. 1984)).

Purpose and Character of the Use, Including Whether Such Use is of a Commercial Nature or is for Nonprofit Educational Purposes

“Use of the Mailers was purely educational as part of permissible efforts to inform the voters regarding the issue of traditional family values.”

While use for nonprofit educational purposes is valid under this factor, here use of the photo is not the type of “education” contemplated by the statute.

17 U.S.C. § 107 states that fair use of copyrighted works “for purposes such as . . . teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.”

Educational purposes contemplated by the statute’s drafters relates to schooling, not mailers circulated during an election.

Thus, I am not persuaded by Public Advocate’s argument.

Transformativeness

Use of photo was “highly transformative” and for political purposes

“the more transformative the new work, the less will be significance of other factors, like commercialism, that may weigh against a finding of fair use.”

Use is transformative if it “adds something new, with a further purpose or different character, altering the first with new expression, meaning or message.”

Defendants did nothing to the lifted portion of the photo, save removing the bottom portion of couple’s legs.

Merely took the lifted portion and superimposed it on a mailer using a different background and placed a caption on the mailer

Such actions cannot be characterized as “highly transformative.”

Mere fact that the photo was used for political purposes does not bolster argument.

Nature of the Copyrighted Work

“Under this factor, the more creative a work, the more protection it should be accorded from copying; correlatively, the more informational or functional the plaintiff’s work, the broader should be the scope of the fair use defense.”

The Plaintiffs allege numerous facts regarding Hill’s creative touch on the photo e.g., choosing the exact pose, camera angle, focal length of lens, aperture, shutter speed, lighting, and the photo’s color.

Inspection of the photo reveals that it is more creative than informational or functional and that Hill, as a professional wedding photographer, took special care in taking the photo and making sure it depicted the appropriate tone for the occasion.

Thus, this factor does not favor application of the fair use doctrine.

The Amount and Substantiality of the Portion Used in Relation to
the Copyrighted Work as a Whole

Defendants used 20% of the image in their mailers
Used 20% of the copyrighted Photograph.

Defendants used the focal point, the most important portion of the photo:
Couple holding hands and kissing.

The “qualitative nature of the taking” is important. The quantity of a taking does
not necessarily determine the quality of the taking.

Using only 20% of the photo does not automatically tip this factor in favor of
applying the fair use doctrine.

Because of the quality of this taking, I find that this factor
does not favor application of the fair use doctrine.

The Effect of the Use Upon the Potential Market for or Value of the Copyrighted Work

This factor “requires courts to consider not only the extent of market harm caused by the particular actions of the alleged infringer, but also whether the unrestricted and widespread conduct engaged in by the defendant . . . would result in a substantially adverse impact on the potential market for the original.”

This inquiry “‘must take account not only of the harm to the original but also to the market for derivative works.’”

This factor, more than any other factor, is evidence driven.

While I could speculate on the photo’s market and potential market, I believe that would be improper.

As such, I find that the Plaintiffs’ have stated a plausible copyright infringement claim under the Copyright Act and

1 Year and over 90 filled documents later

The court dismissed the couple's misappropriation claim in March on the grounds that the ads were primarily non-commercial, and because they related to a matter of public concern.

Free speech rights under the First Amendment shielded the defendants from the couple's claim, the court said

Public Advocate finally agreed to accept a declaration from the court that it had infringed Hill's copyright, "without any finding or admission that such infringement was 'willful'" under federal copyright statutes.

Public Advocate agreed to pay Hill \$2,501 to cover costs related to her claim.

The judgment agreement notes that Hill was not entitled to attorneys' fees because she didn't register her copyright in the disputed image before the infringement.





Humans of New York

Like This Page · 8 hours ago · 18

I am a street photographer in New York City. Several months ago, I was approached by a representative of DKNY who asked to purchase 300 of my photos to hang in their store windows "around the world." They offered me \$15,000. A friend in the industry told me that \$50 per photo was not nearly enough to receive from a company with hundreds of millions of dollars of revenue. So I asked for more money... See More — with Club 21 (Thailand), Andrea Jones Torres, C. Cxxxxxxx, Sankoh, DKNY, urbanzen, Irma Hahn-Pontiles and Joseph Padiernos.

Like · Comment · Share

33,889 people like this.

35,797 shares

View previous comments

6 of 3,571



Sahar Heidari You know what? You are a great soul man! Every morning I wake up I feel so happy inside remembering that there are people like you living in this world! 😊

8 minutes ago · Like



Beverley Ingrid Mcintosh Question, how did they obtain these actual photographs without the owners permission?

5 minutes ago · Like · 2



Wendy Clifton Charlie Lawrence

4 minutes ago · Like



Hollyloch P. Mae well I think the artist was

Brandon Stanton, of [Humans of New York](#), posted the following to his Facebook Fan page:



Humans of New York

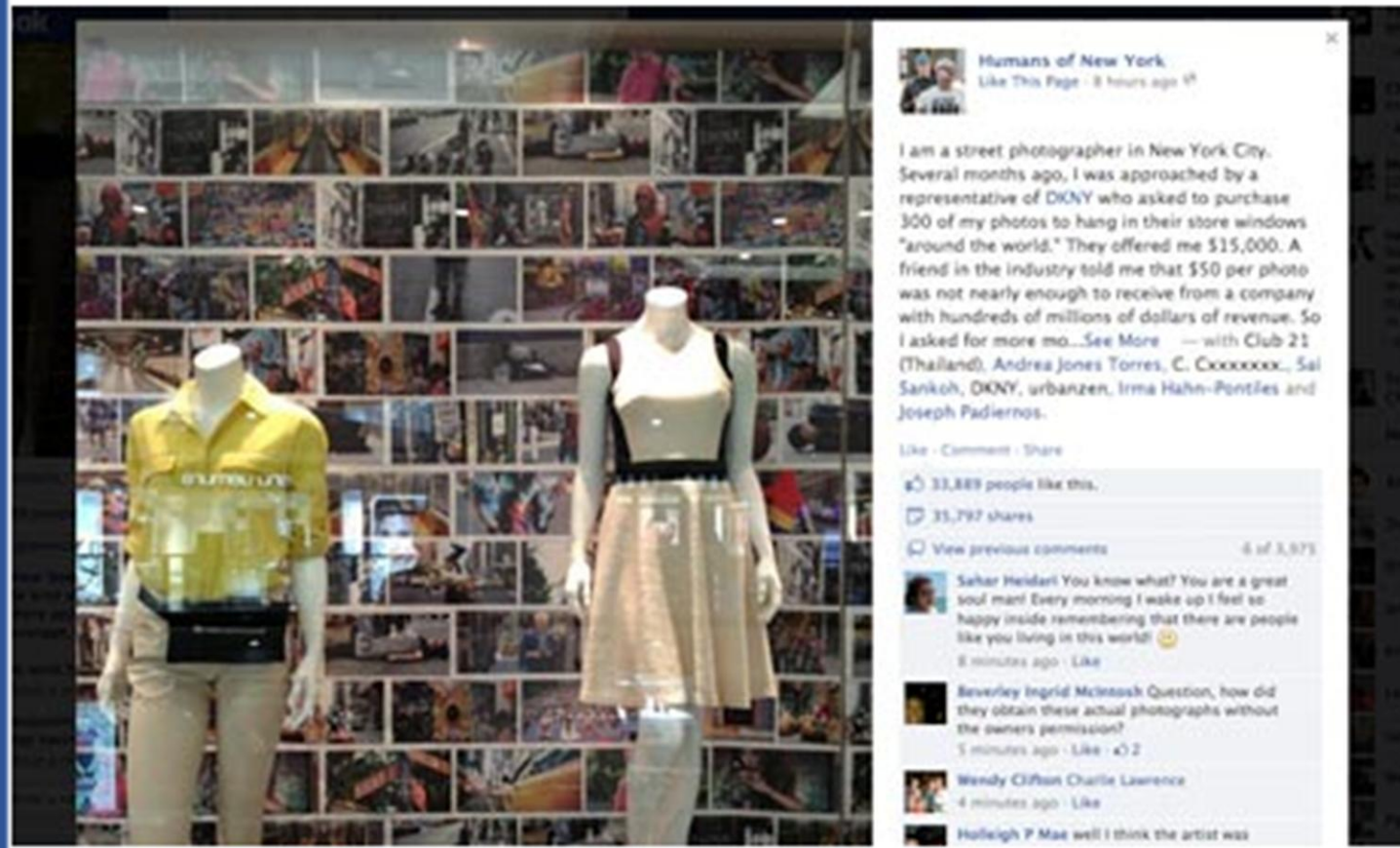
I am a street photographer in New York City. Several months ago, I was approached by a representative of [DKNY](#) who asked to purchase 300 of my photos to hang in their store windows "around the world." They offered me \$15,000. A friend in the industry told me that \$50 per photo was not nearly enough to receive from a company with hundreds of millions of dollars of revenue. So I asked for more money. They said "no."

Today, a fan sent me a photo from a DKNY store in Bangkok. The window is full of my photos. These photos were used without my knowledge, and without compensation.

I don't want any money. But please **SHARE** this post if you think that DKNY should donate \$100,000 on my behalf to the YMCA in Bedford-Stuyvesant, Brooklyn. That donation would sure help a lot of deserving kids go to summer camp. I'll let you guys know if it happens.

DKNY to pay \$25,000 after using photographs without permission

New York photographer Brandon Stanton declined label's earlier offer only to find images had been used in Bangkok display



DKNY to pay \$25,000 after using photographs without permission

New York photographer Brandon Stanton declined label's earlier offer only to find images had been used in Bangkok display



Scott Winn



Scott Winn

Hey! My name is Scott Winn and I manage the photography and videography for The Color Run. I saw that you got some awesome photos from our last race. Would you be interested in letting us use some of your photos in an album on our Facebook page?

<http://www.facebook.com/thecolorrun>

We'll link back to your work in the album. Our other photographers have gotten some good exposure from this. So let us know if you'd be interested. Thanks!



The Color Run

We make the happiest 5k's on the planet, donate paint, and have a heck of a lot of fun.

Page: 596,940 like this

Share





UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KATHERINE HEIGL,

Plaintiff,

v.

DUANE READE, INC.,

JUDGE RAMOS Defendant.

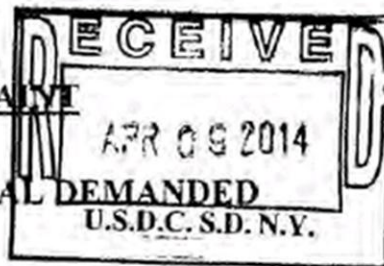
14 CV 2502

Civ.

COMPLAINT

JURY TRIAL DEMANDED

U.S.D.C. S.D. N.Y.



Plaintiff Katherine Heigl, by her attorneys Ballard Spahr LLP, for her complaint in this action against Defendant Duane Reade, Inc., alleges as follows:

NATURE OF THE ACTION

I. The actress Katherine Heigl, who has starred in the television series *Grey's Anatomy* and in films including *27 Dresses* and *The Ugly Truth*, was recently photographed without her consent by paparazzi in New York City leaving a Duane Reade





Duane Reade
@DuaneReade

Follow

Love a quick #DuaneReade run? Even @KatieHeigl can't resist shopping #NYC's favorite drugstore bit.ly/1gLHctI
pic.twitter.com/uGTc3k1Mii

Reply Retweet Favorite More

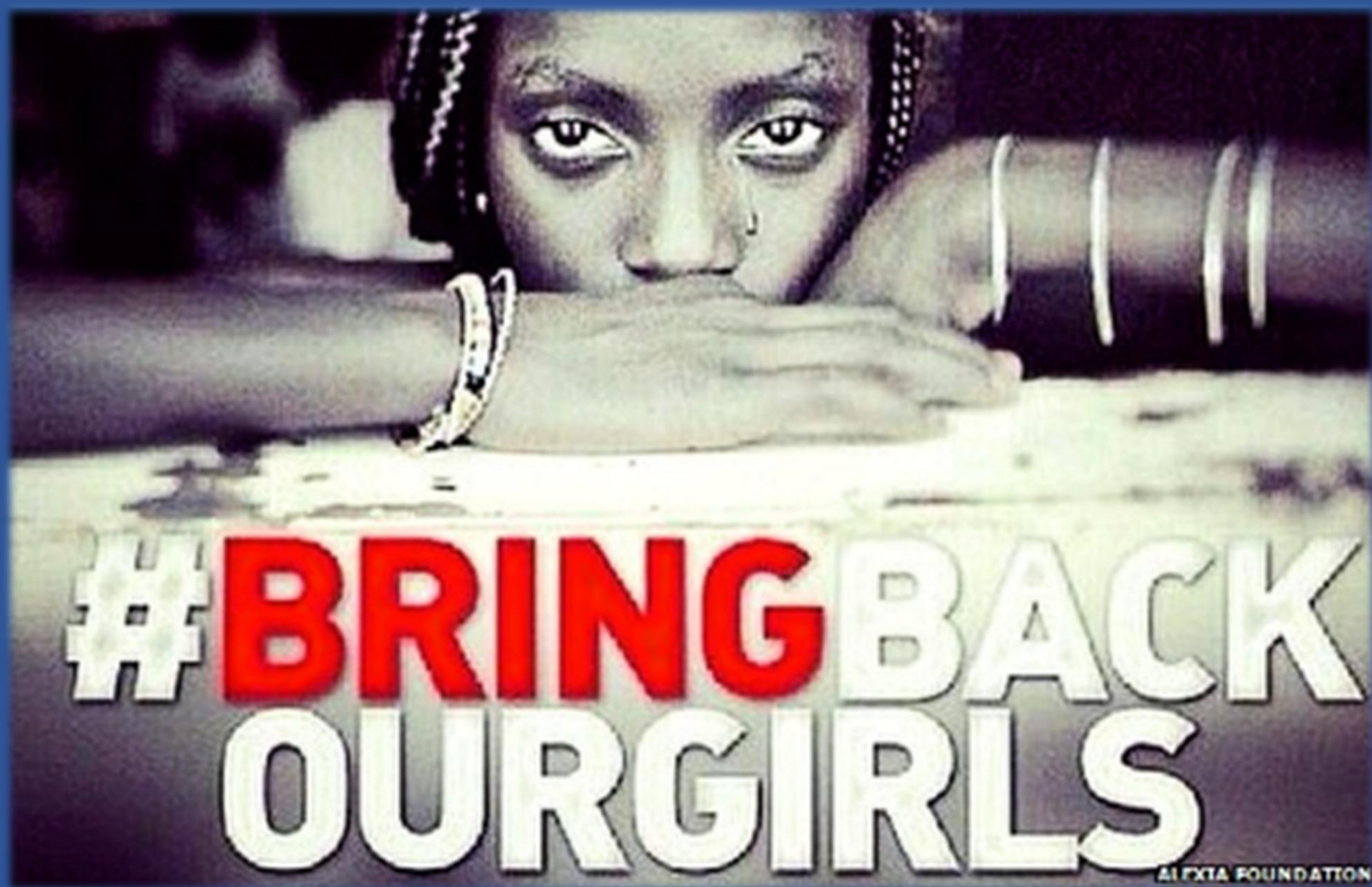


RETWEETS
86

FAVORITES
202







Review: 'O.J.: Made in America,' an Unflinching Take on His Rise and Fall



O. J. Simpson waving at fans in Buffalo. M. Osterreicher/ESPN Films

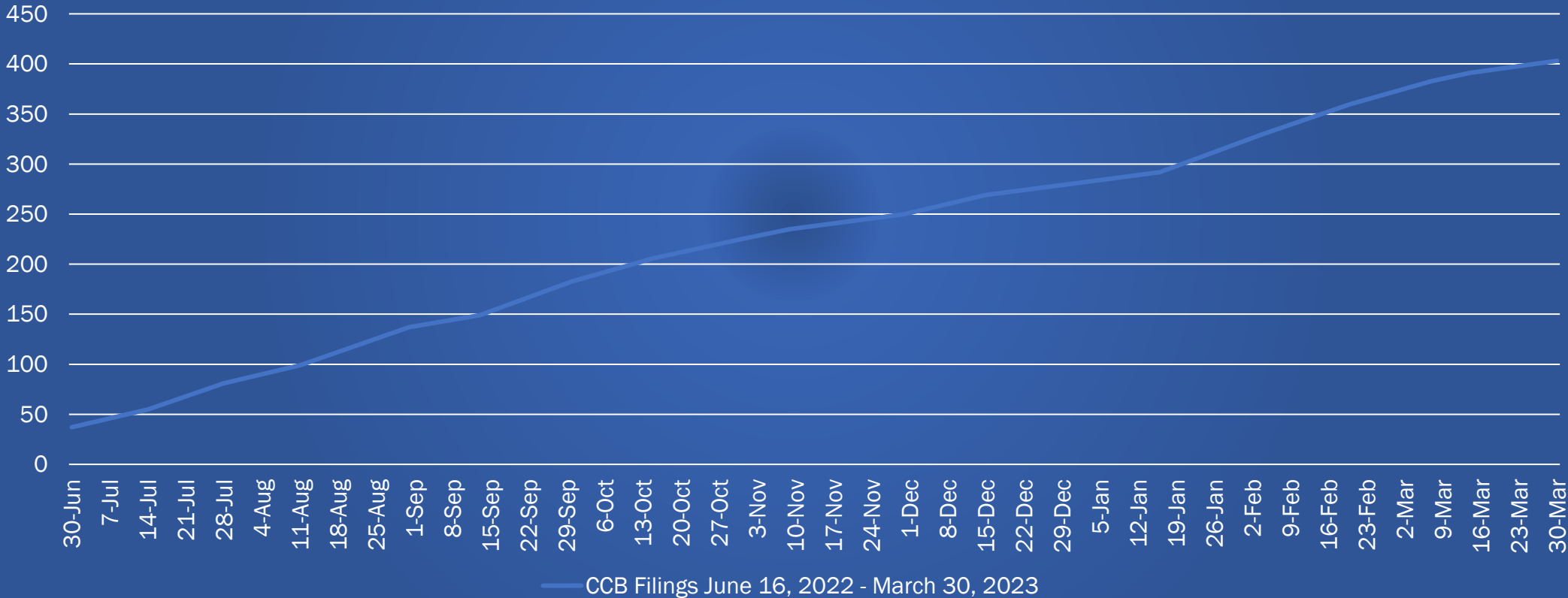


Copyright Claims Board
First Year of Data

Number of Filings

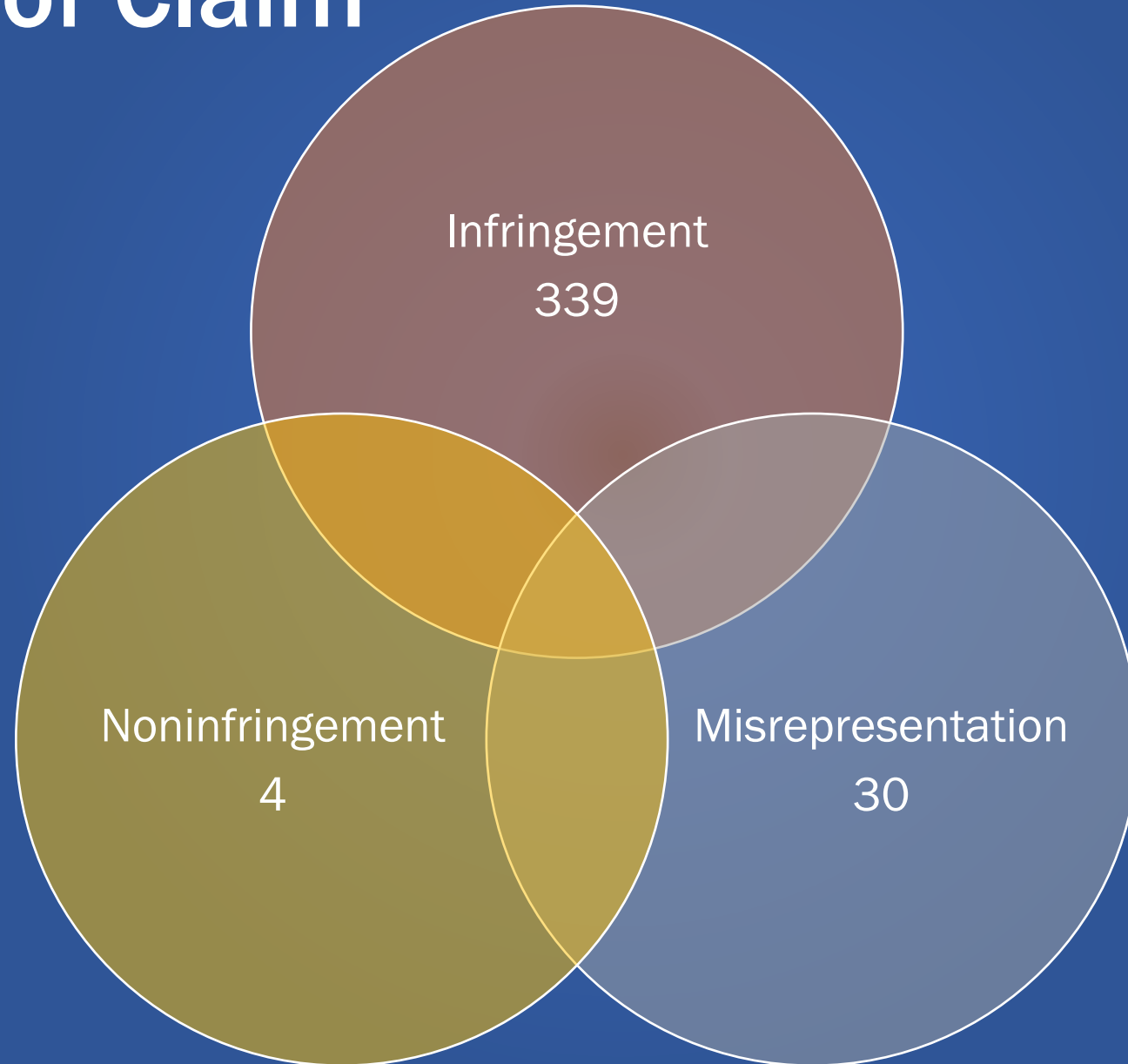
Number of claims
filed in total: 403

CCB Filings June 16, 2022 – March 30, 2023

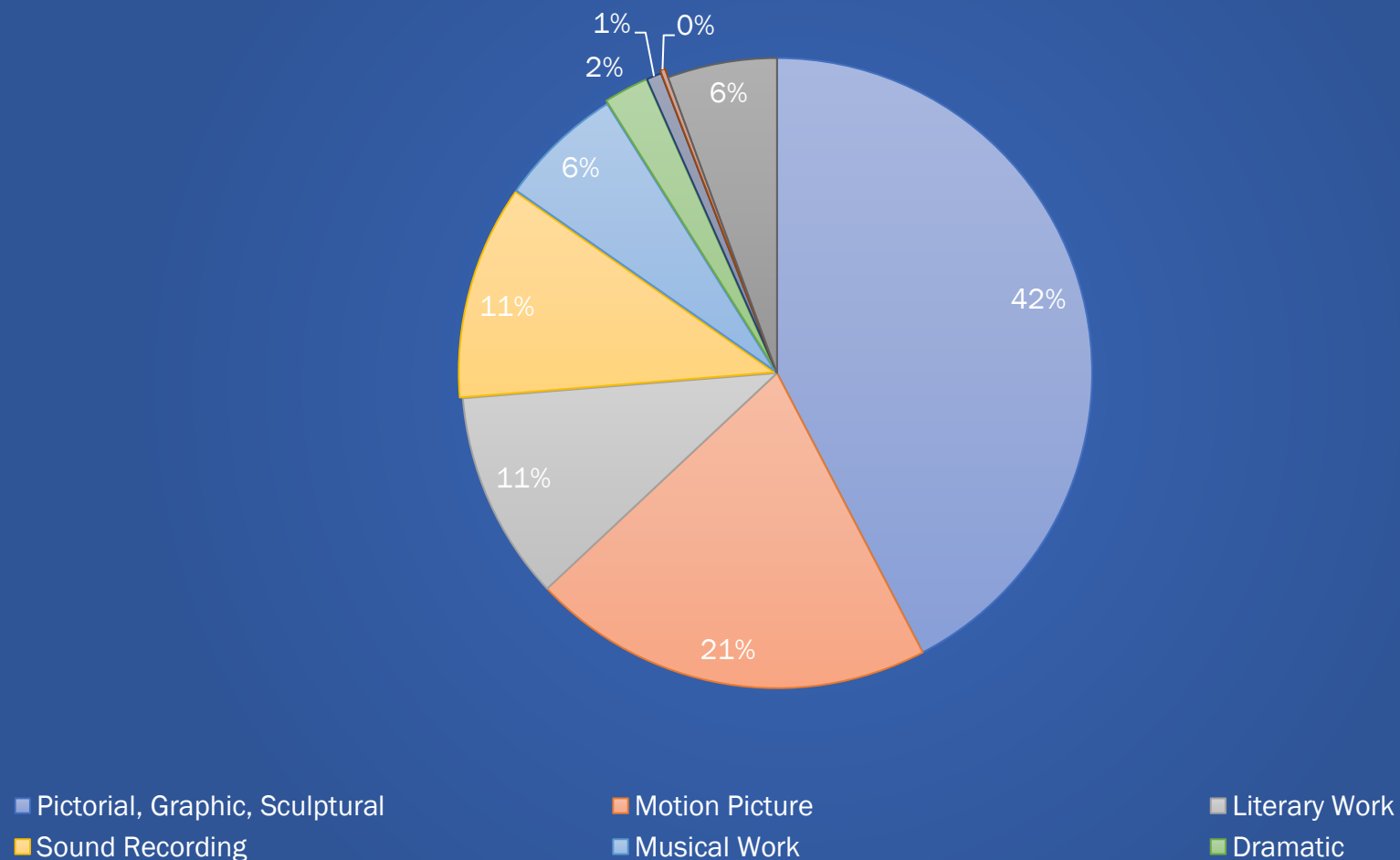


*There have been three
instances of failed
payment.

Nature of Claim



Type of Work as Identified by the Claimant



Small Claims Versus Smaller Claims

Small Claims (\$30,000 monetary limit)	242
Smaller Claims (\$5,000 monetary limit)	160

Opt-Out Activity

Opt Out: Claims with single respondent	25
Opt Out: Claims with multiple respondents but not all respondents opted out	1
Opt Out: Claims with multiple respondents and all respondents opted out	1

Progress of Active Cases

Cases that have reached Active Phase*	34
Referrals from District Court	1
Cases in discovery	6
Cases where a First Default Notice has been issued	12

Closed or Determination Issued

Dismissed because no proof of service or waiver of service was filed within 90 days	53*
Dismissed due to request to withdraw	26
Dismissed due to request to withdraw/dismiss and Board notified of settlement agreement**	13
Final Determinations	2

Representation

Self-Represented	237
Represented by Attorney (Outside Counsel)	115
Represented by In-House Attorney or Authorized Company Representative	47
Law Student Representative**	2

State of Residence of Claimant

California	51
Texas	22
New York	21
Washington	15
Florida	12
North Carolina	10
Pennsylvania	8
Virginia	8
Illinois	8
Wisconsin	7
Colorado	7
Louisiana	6
Michigan	6
Connecticut	5
New Jersey	5

Arizona	4
Nevada	4
Oregon	4
Tennessee	4
Maryland	4
Georgia	4
Massachusetts	4
Ohio	4
South Carolina	4
Kentucky	3
Missouri	3
Arkansas	2
DC	2
Delaware	2
Mississippi	2
Nebraska	2

Alabama	1
Indiana	1
Iowa	1
Minnesota	1
Montana	1
Oklahoma	1
South Dakota	1
Wyoming	1

Country of Residence of Claimant

United Kingdom	8	
Australia	4	
Ukraine	4	
Canada	4	
Germany	3	
China	3	
Ireland	2	
Malaysia	2	

Austria	1	
Brazil	1	
Cambodia	1	
Czech Republic	1	
France	1	
Hungary	1	
Latvia	1	
Kazakhstan	1	
Singapore	1	
Sweden	1	
Switzerland	1	

ARTIFICIAL INTELLIGENCE



Copyright and Artificial Intelligence



The Copyright Office has launched an initiative to examine the copyright law and policy issues raised by artificial intelligence (AI) technology, including the scope of copyright in works generated using AI tools and the use of copyrighted materials in AI training. After convening public listening sessions in the first half of 2023 to gather information about current technologies and their impact, the Office will publish a notice of inquiry in the *Federal Register*.

Announcements

March 16, 2023 - [Copyright Office Launches New Artificial Intelligence Initiative](#)

Upcoming Events

April 19, 2023 – [Literary Works, Including Software Listening Session](#)

May 2, 2023 – [Visual Arts Listening Session](#)

May 17, 2023 – [Audiovisual Works Listening Session](#)

May 31, 2023 – [Music and Sound Recordings Listening Session](#)

Past Events

Fall 2021 – [Copyright Law and Machine Learning for AI: Where Are We and Where Are We Going?](#)

Winter 2020 – [Copyright in the Age of Artificial Intelligence](#)

Past Announcements

Fall 2021 – [Artificial Intelligence: The Copyright Connection](#)

Copyright Registration Guidance

[Copyright Registration Guidance for Works Containing AI-Generated Material](#)

[Federal Register Notice](#)

[Zarya of the Dawn Registration Decision](#)

[A Recent Entrance to Paradise Review Board Decision](#)

Related Resources

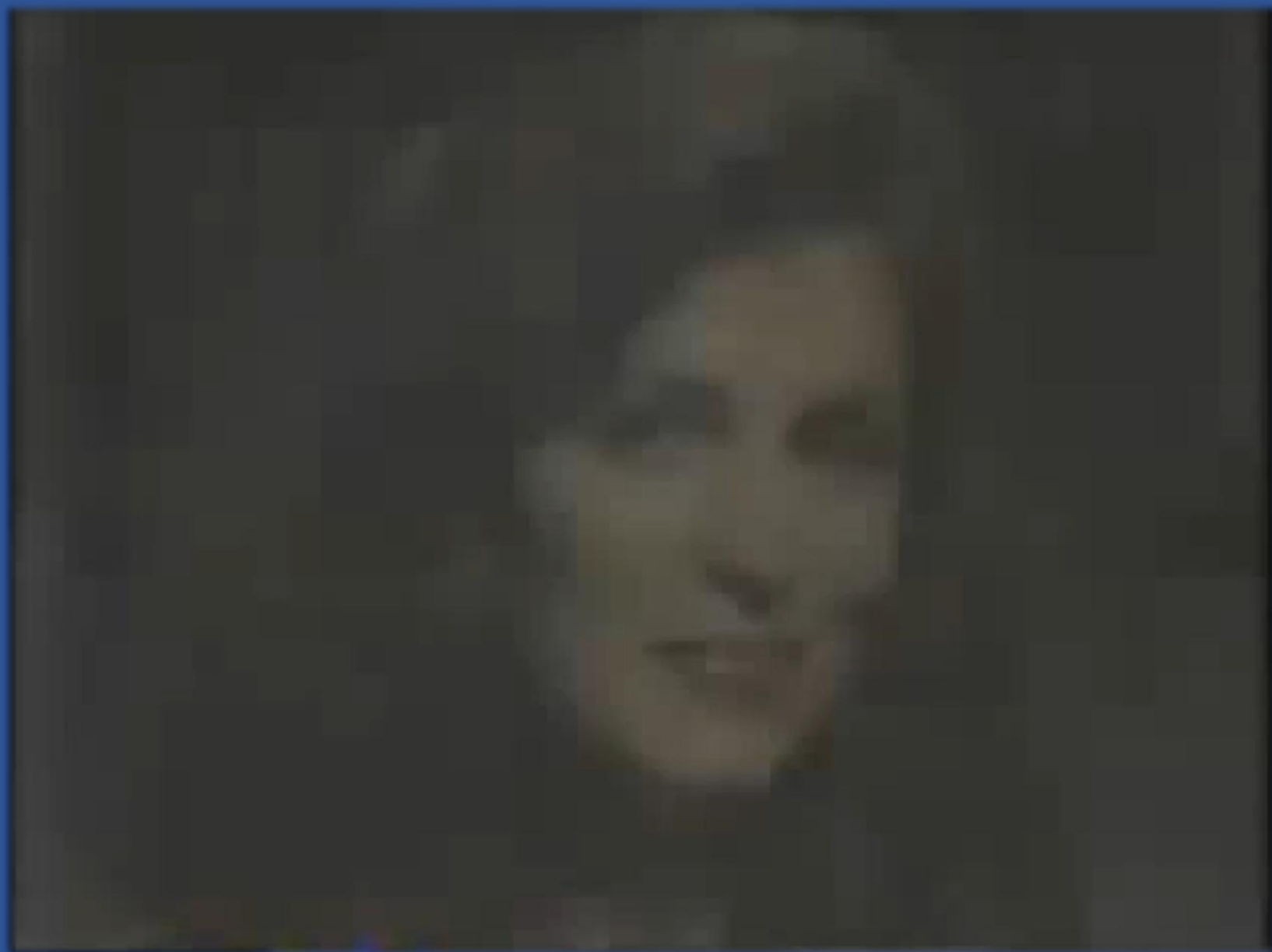
[Compendium of U.S. Copyright Office Practices, Third Edition](#)

[Statements to Congress](#) ▼

[Review Board](#) ▼

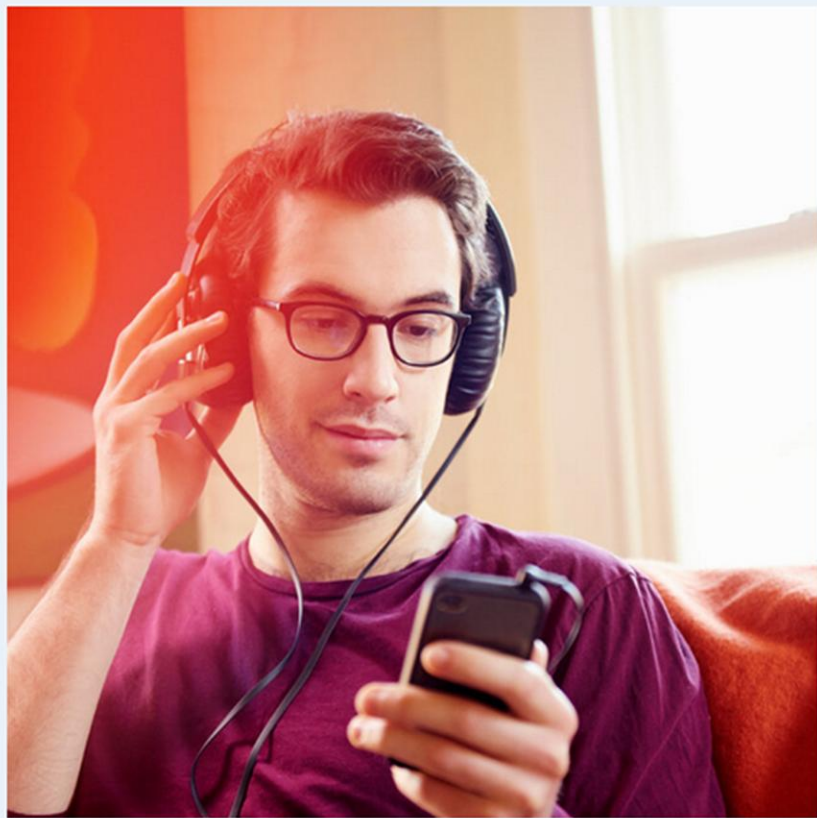
[USPTO on Artificial Intelligence](#)

[WIPO on Artificial Intelligence](#)



*Can We No Longer Believe Anything
We See?*

Which image was created by artificial intelligence? Click on your guess





Artist Refuses Prize After His AI Image Wins at Top Photo Contest

APR 14, 2023

MICHAEL ZHANG







OPINION
ROSS DOUTHAT

The Politics of a Trump Indictment

March 22, 2023, 5:00 a.m. ET



Photo Illustration by Leslie dela Vega/The New York Times; photograph, via Getty Images

The Politics of a Trump Indictment

March 22, 2023

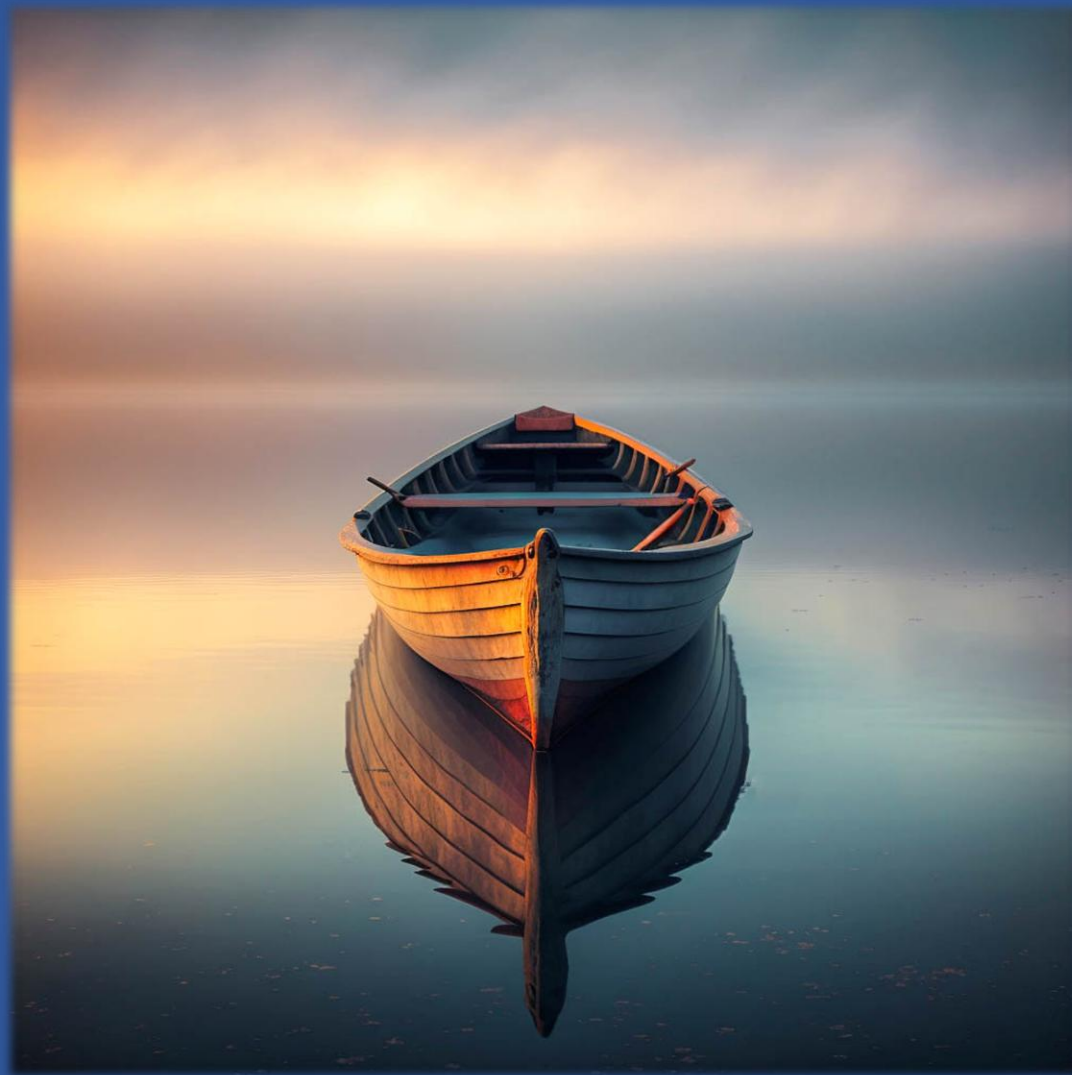


Getty Images











9:01



Williams Luna



2d Like Reply



Mike Eigenbrode

Hey y'all, looks like ChatGPT has created another AI generated fake video. If Ft Lauderdale was this bad, the greenies would've had this footage all over the news. We are in for some really interesting times ahead. Y'all better hold onto that second amendment because your lives are going to depend on it.

58m Like Reply



**Tennessee becomes the first state to
protect musicians and other artists
against AI**

OpenAI's GPT Store Is Triggering Copyright Complaints

**New Federal Bill Could Require Disclosure of Songs Used in
AI Training**

How Suit Over An AI George Carlin May Lead To Legislation

Congress Ponders IP Protections For Human-AI Creations

Film Plagiarism Claims May Foreshadow AI Copyright Issues

Photographer Fools the Internet With AI-Generated Cameras That Don't Exist

DEC 15, 2022

MATT GROWCOOT



A photographer has fooled the internet with his AI-generated images of antique cameras that don't exist



Writing With Light

Writing with Light is a movement to support nonfiction photography in which the integrity of the photographer, as the author of the image, is considered to be paramount in establishing the photograph's veracity.

Nonfiction photography is a recording of the visible in which the photographer strives to represent actualities (events, people, etc.) in a fair and accurate manner with appropriate context.

Statement of Principles

As recordings of the visible, journalistic photographs must be fair and accurate representations of what the photographer witnessed.

Neither alterations to a photograph that mislead the public, nor staging events while depicting them as spontaneous, are acceptable in journalism. Nor should one publish a photorealistic synthetic image made by artificial intelligence and pretend that it is an actual photograph.

Any deviations to these basic principles must be explained in a caption, credit, or appropriate icon.

WWLIGHT.ORG

We believe in the photographer as author, just as a writer is considered to be an author.

Each must be judged on their integrity, their knowledge of the situation being depicted, and their ability to communicate what is happening.

The old saying, “the camera never lies,” is no longer useful. The camera has become more like a writer’s pen.

If a journalistic photograph can be considered a “quotation from appearances,” the frame of the image viewed as similar to quotation marks, then the reader could immediately differentiate a journalistic photograph from other imagery.

We must reach out to the public so that they are more media literate in a spirit of transparency.



On Google Search, this synthetic image (above) was the number one result when “tank man” was the search term. In fact, his identity is unknown.

Google Search has announced it will soon fabricate images rather than find them.





Text prompt:

“A photograph of a soldier
in the Vietnam War taking a selfie.”



Text prompt:

“A photograph of the ticker-tape parade for American soldiers in New York City after the Vietnam War ended in 1975.”





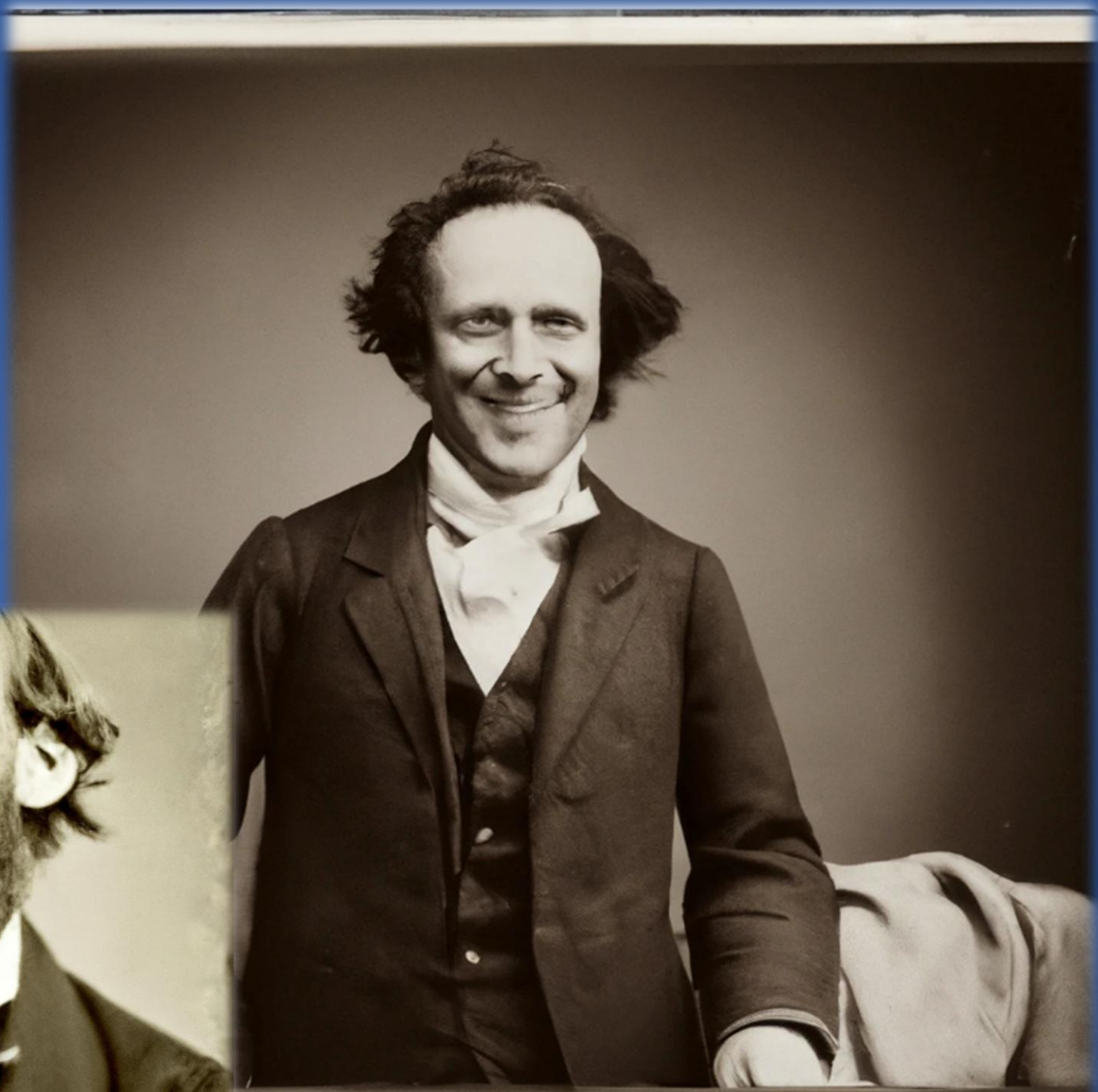
Kamala Harris
born, 1964.



March on Washington, 1963.



Photographs of grieving widows in Ukraine
by a war photographer.



Smiling plantation
owners, Mississippi,
1855.



🕒 This article is more than 4 months old

Amnesty International criticised for using AI-generated images

Group has removed AI images used to promote their reports on social media, including fake photos of Colombia's 2021 protests



📷 An AI image generator-made picture to depict protests and police brutality in Colombia. Amnesty International said it chose to use the AI-generated images to protect protesters.

Adobe is selling fake AI images of the war in Israel-Gaza

Online publications have used a photorealistic image of a missile attack from Adobe Stock without marking it as fake.

CAM WILSON NOV 01, 2023

[Share](#)



ARTIFICIALLY GENERATED IMAGES SHOWN IN ADOBE'S STOCK IMAGE SERVICE (IMAGE: ADOBE)



Palestinian refugees. A Palestinian girl on the street of a destroyed city

By Volodymyr

Generated with AI

Save to Library

Download Preview

☒ Standard license

☐ Extended license (US\$79.99)

Buy License

FILE # 668063846

Preview Crop

Find Similar

DIMENSIONS
3500 x 2333px

FILE TYPE
JPEG

CATEGORY
Social Issues

LICENSE TYPE
Standard or Extended

An AI generated photo of a "Palestinian Refugee" being sold by Adobe as stock photography (as of October 11, 2023).

Mickey H. Osterreicher

General Counsel

National Press Photographers Association (NPPA)

lawyer@nppa.org

[@nppalawyer](#)

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