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Broccoli Cooking Instructions
Place broccoli in slightly salted boiling water
Simmer for 4/6 minutes until tender.
300 g. class. I



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Cutting Out Collage:

CARFAC and the License to do Business

by Jonathan Culp

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med, s.a. Castellón - C.I.F. A-
Broccoli Cooking Instructions
Place broccoli in slightly salted boiling water
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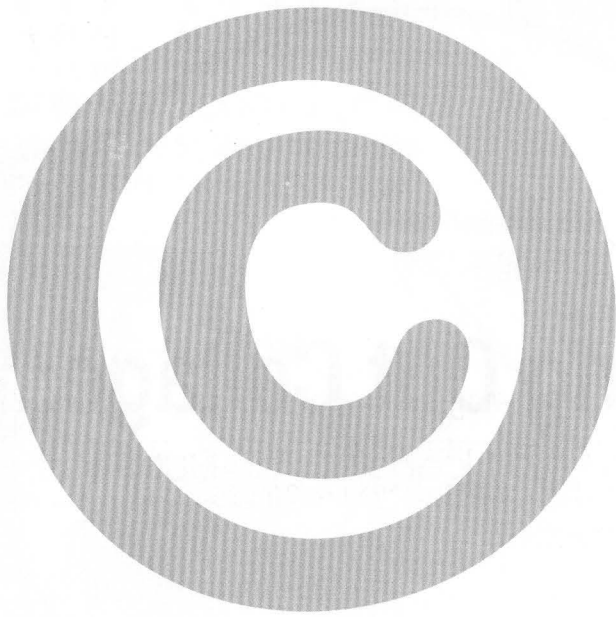
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by Ittella



My friend Stinky Marinky, the Croatian Sensation, makes book art. Within the pages of discarded hardcover novels he pastes words and pictures from newspapers, gig posters, porn magazines, food packages, scraps of paper blowing down the street. The arrangements are sometimes dense and sometimes thin, sometimes funny and sometimes ambiguous; the collages transform the meaning of the source, or they don't. But they are always touching and ingenious; they remind me of a collage-format diary, except they follow no narrative or timeline that an outsider could access.

A couple years ago, one of Stinky's art books was accepted into an exhibition at Rodman Hall, one of Niagara Region's tonier arts establishments. On delivering his work to the venue, he was greeted by a fellow who took his book and flipped through it. Getting excited, he exclaimed to Stinky Marinky, loudly and repeatedly:

"That's not art!"

So in case this gentleman or his soulmates are reading, let's say it loud.

Collage art is art. Collage artists are artists.

Some people would deny us even that small dignity. And some of those people are artists themselves.

Previous page image: Marinko Jareb, *Skateboarding the Skies from Helsinki to Toronto*, in *big life '04*, 2004, collage. Courtesy: the artist.

Within this context, our story unfolds ...

It is June 2006. Stephen Harper and "Canada's New Government" are half a year into their mandate, and the Ministries of Heritage and Industry are receiving advice about reforms to Canada's copyright law. America's (not so new) government is on the phone of course, but so are myriad domestic lobby groups such as the Canadian Recording Industry Association, the Creators' Rights Alliance and Canadian Artists Representation (CARFAC). The Liberals' Bill C-60 may have died with their government, but these diverse voices continue to advance its agenda: new, more stringent controls on users' rights, to benefit and underwrite the professional producers of art and culture.

Meanwhile, a new organization has set out to advance a different argument: Appropriation Art, "a coalition of arts professionals," presents a petition to parliament. In a mere three weeks, this modest initiative has secured over 600 endorsements, including many individual artists and curators as well as the Independent Media Arts Alliance, the Canadian Museums Association and regional media arts cooperatives such as the Calgary Society for Independent Filmmakers and the Liaison of Independent Filmmakers of Toronto.

Their petition centres around three principles: first, that Canadian law unfairly favours copyright owners over users and creators; second, that the law's Fair Dealing legal provision is inadequate and should be enlarged; finally, that the government should not criminalize the circumvention of digital anti-copying technology. The petitioners request a meeting with Heritage Minister Bev Oda to discuss these issues and their impact on the cultural community.

The meeting is not forthcoming, but the statement draws attention and there is soon a rebuttal from the national offices of CARFAC. Founded in 1968, with a mandate to “promote a socio-economic climate that is conducive to the production of visual arts in Canada,” CARFAC has won such battles as the right to exhibition fees from public art galleries, the recognition of artists as the primary producers of culture and the institutionalization of “moral rights” to protect artists from exploitation. With independent regional affiliates in several provinces and territories, they have spent decades working to organize and bargain on behalf of the country’s professional visual and media artists — including those artists whom the Appropriation Art petition represents.

CARFAC’s response, entitled “Copyright Law and the Visual Artist,” starts by asking, “What do artists want from copyright reform?”¹ They assert that current Canadian law does not protect “appropriation without permission under *any* circumstances,” which is in artists’ best interests. They continue to encourage further restrictions on use, including paying artists for resale of their work and bringing Canada “in line with World Intellectual Property Organization agreements.” In response to collage artists’ concerns about the legal reforms eradicating their practice, they advise artists “to seek permissions, to pay the contributors and to credit them.”

In spite of those 600 signatures, this is CARFAC’s contrary verdict on what “artists want from copyright reform.” It is authoritative — they speak for *all* artists, for that is who CARFAC exists to represent...right?

As a collage artist myself, I admit that the language of the lobbyists, with their calculated appeal to power, is not my own. I do, however, understand the passions that

Let’s close our eyes and imagine a magical time machine with which intellectual property enthusiasts may traverse the ages to enact their vision of artistic justice via “permissions.”

motivate such efforts. I care deeply about my own and other’s ability to continue making the art we choose autonomously and without official sanction. This includes the right to transgress hegemonic moral codes, the right of quotation and critique — including the critique of other artists’ public work — and the basic right to deny the supremacy of the market in choosing our aesthetic approaches. These objectives are notoriously hard-won and fragile; and in my opinion CARFAC’s handling of this issue does them violence. It is reductive, distorted and appallingly political.

Let’s close our eyes and imagine a magical time machine with which intellectual property enthusiasts may traverse the ages to

enact their vision of artistic justice via “permissions.” First stop is post-revolutionary Russia, where Lev Kuleshov is forced to stop inventing montage because he can’t afford to pay royalties to Hollywood. Then back to Spain 1614, where they track down Tordesillas and destroy his unauthorized sequel to “Don Quixote” — without whose inferior work, Cervantes would never have written his own Part Two. Zap ahead to the National Film Board studios of the early 1960s, where they can revoke collage genius Arthur Lipsett’s sole bargaining chip — economy — and thus remove him entirely from film history. Drop by The Twilight Zone club to prevent Kool Herc from inventing breakbeats ... up a couple decades to light the Plunderphonics bonfire



Richard Kerr, *collage d'hollywood*, 2003, film still. Courtesy: the artist.

Remember the Christian Right's derogatory invective against "homosexualists?" Well now RAAV, with considerable sniffing, brings us the "appropriationists."

for John Oswald ... whip back to 1937 to render unfeasible Joseph Cornell's pioneering collage film "Rose Hobart." And for their last number, CARFAC can explain to Marcel Duchamp that his Mona-Lisa-with-a-mustache may be subversive and all that, but as their missive states, "there is no culture that is free of cost."

Duchamp would have drawn a big bushy one on that phrase, seeing as he did the insidious cost that "official" culture exacts from artists. It is telling that CARFAC justifies its stance on permission by reference to the film industry: "Witness the huge lists

of credits at the end of most films." Just so: film and television are overwhelmingly the least democratic and most corporate of all the arts — or rather, the ones where the challenge from below is least fulfilled on an institutional level — and those endless credit rolls embody this state of affairs in documentary and fiction alike. Lawyers are expensive.

Mainstream media make hay out of enforcing the one-way traffic of corporate speech, propagating this ideology to unsuspecting victims. A friend of mine who teaches film found his students

angrily rejecting a collage-editing exercise on moral grounds — what right did they have to use the images of others, even if the product will never be seen publicly? Better, I suppose, that the public university should shower licensing fees on the private broadcaster, often to the tune of \$200 a *second*. Those sobbing grips in the movie ads have clearly done their assigned job of inciting moral panic. What better model for an initiative whose bottom line is not liberty or diversity or quality of expression but control?

To their credit, CARFAC has previously shown the ability to disentangle the interests of "artists" and "owners," but I see no such nuance in their response to Appropriation Art, for whom this distinction is everything. The vast majority of collage work, after all, draws on commercially licensed multiples, for which the concept of moral rights simply does not apply under the law. Just what is going on here?

Fast forward to 2006 September. After failing to secure a dialogue with Bev Oda, the Appropriation Art Coalition have now been trying for months to secure a dialogue with CARFAC's national office. Instead,

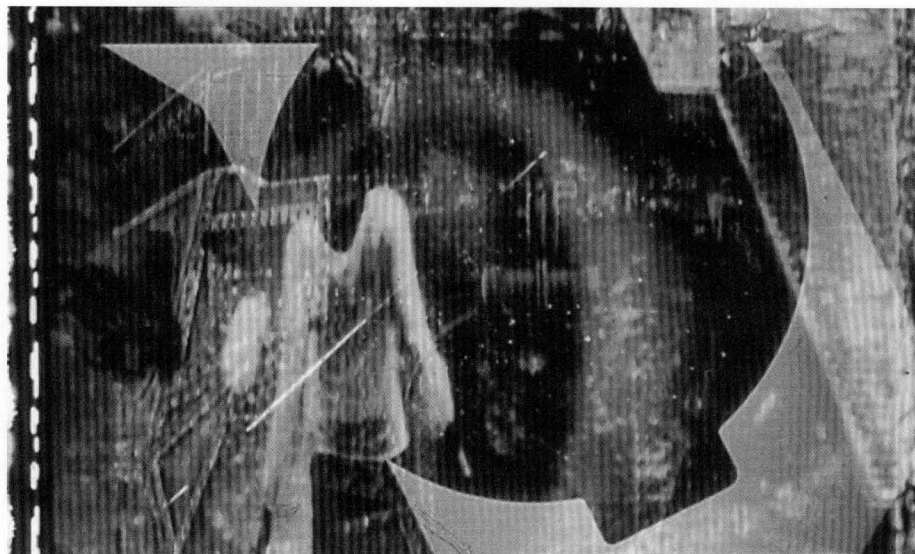


Joyce + Duggan, *Drift*, 2006, 3 screen video projection. Courtesy: the artists.

there are more bitter statements and counterstatements, circulated online. In spite of efforts at mediation by CARFAC's Ontario office, there has been no meeting.

Late in the month, the Creators' Rights Alliance hosts the soon-to-be-legendary CopyCamp, a lively so-called "unconference" that features among its attractions over two dozen sessions explicitly concerned with appropriation practice. It is here that CARFAC and Appropriation Art finally meet in dialogue. After a tense but relatively constructive engagement, in which CARFAC articulates their fundamental support for artists who practice collage, Appropriation Art requests a public statement to that effect.

Four months and one AGM later, no such statement has been made by the national office, but the Ontario office has posted a copyright questionnaire on its web site.



Richard Kerr, *collage d'hollywood*, 2003, film still. Courtesy: the artist.

Meanwhile, the Quebec affiliate — Le Regroupement des Artistes en Arts Visuel du Quebec (RAAV) — goes on to distribute a couple of position papers of their own. Unfortunately, these cannot be described as conciliatory. Remember the Christian Right's derogatory invective against "homosexualists?" Well now RAAV, with considerable sniffing, brings us the "appropriationists" — quotes in original! Perhaps these writings are a tactic to make the national office look graceful by comparison.

Getting back to our transgressive time machine, Arthur Lipsett provides a fine example of the politics of ownership. As an NFB employee, Lipsett's boss did in fact own the copyright to the many found sounds and images that he interpolated. But because he chose despairing social satire over nation-building, the NFB sacked him anyway. "The world can't be that

miserable," as his assigned producer put it.² Without this protective institutional shell — such as it was — he had no means to make and show his work.

I don't believe Arthur Lipsett was a more ethical artist when he was employed than when he was unemployed; I don't believe his removal from productivity did anything for anyone's "moral rights;" and I don't believe that the poverty of other filmmakers is Arthur Lipsett's fault. If CARFAC happens to agree with me, then they have not been very articulate, or consistent, about it.

In fact, in the most distressingly offensive paragraph of their initial statement, they assert that "Appropriation without permission" — in other words, appropriation as it has been practiced by artists for *centuries* — "tramples on moral rights." Well,

what about collage artists' moral rights? Wasn't CARFAC supposed to be representing our interests too? But hang on, because here comes the punchline:

"Furthermore, if artists are not paid for what they create, why would anyone make art?"

I have a better question: what path of putative logic led our community's most powerful advocates into such a dead end as this? With one phrase they render invisible the untold millions of artists living and dead — a vast majority — who were *not* paid for what they created, but did it anyway, often under extreme economic, legal and political duress. Then they place blame for this situation at the doorstep of *other artists* who dare to appropriate without sanction. And this after calling Appropriation Art "alarmist!"

Does the “art market” with its preposterous system of values really represent something Canadian artists want to perpetuate, even having secured a bigger slice?

Surely someone at CARFAC must understand that the primary economic imperative for the vast majority of unsponsored artists is not to enhance profits but merely to *reduce outflows*. And collage artists do get it coming and going, because the confusion that has been sown around this issue creates a real and present chill.

I speak from experience: I found one film festival attempting to relegate my work to a free-screening ghetto with pro-copyright panelist to follow. No thanks. Let’s not even talk about broadcasting, because there’s nothing to talk about — no permissions, no license. Even a supportive programmer friend expressed to me that appropriation is OK as long as you don’t *make money* on it, which should throw the market-fundamentalists into a dizzy spell. I have had occasion to desire money for

sure, but I haven’t spent the last 15 years making calling cards; I do not aspire to the rank of professional gentleman from the “appropriationist” gutter.

While attending the Victoria Anarchist Bookfair this summer, I met some folks from Coletivo Êxito de Rua, a youth-media group in poverty-rich Recife, Brazil whose agenda is “resistance and solidarity.” After showing a couple of videos on local hip-hop and graffiti culture, they made an appeal for video equipment, which would allow the kids to make their own movies. They talked about how even the poorest family owns a DVD player and watches it five hours a day. I asked what happened to the VCRs that must have come before; they are all gathering dust in the corner, was the reply. And so I described to them how my friend Matias Rozenberg made a col-

lage video using only two VCRs and TV footage of the first Gulf War, and how they could use the same technique to challenge their community’s passive consumption of mainstream media. Surprisingly enough, these social activists’ immediate response was not concern for the proprietary rights of the networks. Rather they exclaimed, “We’ve got to turn them loose on the soap operas!”

Alas, CARFAC in their majesty would forbid rich and poor alike from editing soap operas between two VCRs. They ominously instruct appropriation artists to “proceed with caution,” because “the copyright law [is] designed to benefit them” — note the third person reference, and then ask yourself how CARFAC’s position would have benefited *MAD Magazine*, or Tom Stoppard, or the blues!

Intellectual property boosterism flies in the face of solidarity across sectors and nations. I wonder if CARFAC has given a moment of thought to how their policy agenda provides convenient shelter to, for instance, the pharmaceutical industries that seek to limit access to their medicines in the name of private profit? Or to the corporate genetic engineers who brought us agricultural products like terminator seeds — which grow once and then die, only to contaminate surrounding fields and claim them as Monsanto’s as well? How about that noted patron of the arts Stephen Harper, who as of this writing is moving forward with plans to enshrine socially catastrophic “property rights” in the Canadian constitution?

Do artists really benefit by riding piggyback on this Brontosaurian agenda? The words of Vandana Shiva seem pertinent: “We have a little prayer at seed sowing which says, “May this seed be exhaustless.” The terminator technology comes from



Coletivo Êxito de Rua, *Lancamento In-Bolada*, 2004.
 Courtesy: the author.



Marinko Jareb, *brown is exotic & erotic* in *Dirty and Sticky*, 2002, collage. Courtesy: the artist.

Hard-nosed arts organizers might puff up at this rhetoric, label it utopian mystification; but if they cannot embrace the utopia as their own, they could at least stop standing on its neck. I mean, is it any less mystifying to lecture artists to “respect the law” while you yourself work tirelessly to *change* it? This sounds more like population management than “representation” to me.

In (very) short, CARFAC’s general emphasis on enforcing *permission* can only be expected to benefit *permitted* artists. However, the consent to be governed can be withdrawn; and this brings me back to the great Stinky Marinky, now setting up his one-man show at Cram Gallery in St. Catharines. I am regaling him and a room of incredulous artists with the details of CARFAC’s anti-appropriation crusade, and I say sternly to the Croatian Sensation that these new rules could really screw up his book art.

“No it won’t, man. I’ll just fucking ignore it.”

I invite you to consider the implications of this response.

Jonathan Culp co-founded the Toronto Video Activist Collective and the Satan Macnuggit Video Road Show. His most recent video is It Can Happen Here, a collage documentary. His zine Cine-VHS, an international guide to VHS collage, is available on request from jonathan@satanmacnuggit.com.

Notes:

1. “Copyright Law and the Visual Artist,” CARFAC. <http://www.carfac.ca/2006/11/copyright-law-and-the-visual-artist/>.
2. Tom Daly, interview. From Lois Siegel, “A Clown Outside the Circus,” <http://www.siegelproductions.ca/filmfanatics/arthurlipsett.htm>
3. Vandana Shiva, audio clip. http://www.banterminator.org/news_updates/audio_and_video/terminator_on_trial/vandana_shiva_3
4. Herbert I. Schiller, *Culture Inc.* (Oxford: Oxford University Press, 1989).

another kind of prayer from industry. It says, “May this seed be exhausted, so that our profits are exhaustless.”³

There are other, significantly different directions that arts advocacy might take us. At that aforementioned Victoria book-fair I scored a bargain on a late 1980s screed by Herbert Schiller, which gave me a dose of highly useful anticapitalist realpolitik. “A new version of ‘the free-flow (of information)’ doctrine,” Schiller writes, “would aim at reducing private monopoly power over news, TV programs, films, music, data processing, publishing and advertising. It would encourage the availability, as much as possible, of information as a social and inexpensive good, not, as increasingly the situation, as a saleable commodity.”⁴ This program, he hastens to add, would be fanatically

opposed by the select beneficiaries of the “free” market of intellectual property. But the benefits really would seem to justify the effort.

Indeed, the failure of CARFAC’s policy in this matter could provide a broader-based teachable moment. Does the “art market” with its preposterous system of values really represent something Canadian artists want to perpetuate, even having secured a bigger slice? Would it not make more sense to move toward a leveling of rewards among all artists based on effort and sacrifice, rather than on the basis of units shifted and/or bourgeois prestige? Would this not lead logically to some kind of negotiated, guaranteed income? And would this new economic conception not be applicable and inspirational to other sectors as well?

