

Whose Photo Is It Anyway?

“New Portraits,” a 2014 collection from popular visual artist Richard Prince, has recently resurfaced after a print from this collection sold for over \$90,000 at Frieze Art Fair New York.¹ In “New Portraits,” Prince captured screenshots of Instagram pictures uploaded by models, celebrities, and unknown users and added his own comments underneath. He then enlarged the images and printed them on canvas. Prince’s repurposed Instagram images were selected without users’ permission, which is known as appropriation.

This case of appropriation raises important questions regarding art ownership in the digital age. A spokesperson from Instagram told the *Washington Post*, “People in the Instagram community own their photos, period. Off the platform, content owners can enforce their legal rights.”² Yet the Copyright Act of 1976 allows some provisions for artworks that “recast, transformed, or adapted” previous materials, in particular if the end goal is “criticism” or “comment.”³ For previous appropriation cases, courts have argued that a new art work had to do more than casually alter the piece, and that there had to be a reason to use this specific piece of art. Later, it was said that appropriated art need only be aesthetically transformed to be legal under copyright law.

Moreover, this case raises ethical questions as well. For example, the Instagram users involuntarily involved with “New Portraits” have varying responses to Prince’s appropriation. On one hand, Anna Collins, a 19-year-old ballet student from Toronto, was not flattered by Prince, claiming that, “I just think about how I’m a working student in school, I’m extremely broke, and here is a middle- aged white man making a huge profit off of my image. Kind of makes me sick. I could use that money for my tuition.”⁴ On the other hand, Missy Suicide thinks Prince is starting conversations “about what we put out there in the public.” And, for a \$90 donation to charity, she is selling her own reproduction of Prince’s Instagram reproduction.⁵

STUDY QUESTIONS

1. How, if at all, would this case be different if Prince was appropriating images that other people spent months working on, rather than images that they spent only minutes working on?
2. How, if at all, would this case be different if Prince was poor and the people whose work he was appropriating were rich?
3. In general, how much of a say, if any, should artists have over how others use their work? Explain your answer.

¹ http://www.huffingtonpost.com/2015/06/30/richard-prince-appropriation-art_n_7674786.html

² <https://news.artnet.com/art-world/more-richard-prince-instagram-303166>

³ <http://www.theverge.com/2015/5/30/8691257/richard-prince-instagram-photos-copyright-law-fair-use>

⁴ http://www.huffingtonpost.com/2015/05/27/richard-prince-instagram_n_7452634.html

⁵ http://www.huffingtonpost.com/2015/05/27/richard-prince-instagram_n_7452634.html

