

ON THE RIGHTS OF MOLOTOV MAN

Appropriation and the art of context
By Joy Garnett and Susan Meiselas

JOY GARNETT: In the spring of 2003, soon after the United States invaded Iraq, I embarked on a new project having to do with the human figure *in extremis*. It was a project born of frustration and anger. All of my paintings are based on photographs, and so for this project—which I came to think of as the Riot series—I searched the Web for images of figures in extreme emotional or physical states. I saved the most promising images in folders on my computer desktop, and I let them sit for a while so I could forget where I found them. I wanted my choices to be based more on aesthetic criteria than on my emotional attachment to their narratives. Eventually I would look through the folders again to see what struck me.



After a few months of this, I decided to go ahead and make the paintings. A photo of a man throwing a Molotov cocktail grabbed my attention, and he became my first subject. I rendered him larger than life—the painting is nearly six feet tall—and I was sufficiently pleased with the results. I went to work on other paintings: shouting demonstrators, angry skinheads, an Air Force pilot and his girl in an emotional embrace, frat boys jumping over bonfires, screaming punk rockers.

When a gallery in New York City offered to exhibit the Riot paintings in January 2004, the directors and I agreed that the “Molotov” painting was emblematic of the series, and so we chose it for the image on the announcement card.

Joy Garnett is a painter and the arts editor of the journal Cultural Politics. Susan Meiselas is a photographer best known for her documentation of human-rights issues in Latin America. Both artists live in New York City, and their work has appeared previously in Harper's Magazine. This portfolio is drawn from their conversation at the New York Institute for the Humanities' "Comedies of Fair U\$e" symposium, which took place last year at New York University.



Partway through the exhibition, I received an email from an acquaintance who had received the card. He said, "That image is from a photograph by Susan Meiselas. Is she aware of your use? And if not, are you going to ask her permission?" He also sent me the link to the website of the Magnum Photo Agency, which represents Susan. The original photograph was different from the fragment I had found. The man with the Molotov cocktail was the central figure of a larger scene, for one thing, and he was also brandishing a rifle. The man, it turned out, was a Nicaraguan rebel. The photograph was from *Nicaragua*, Susan's celebrated photo essay on the revolution, published by Pantheon in 1981. I was fascinated by the original image and the richness of the narrative behind it, but it didn't make any difference to me in terms of permission or credit.

Shortly after the exhibit closed, though, I received a letter sent by a lawyer on Susan's behalf. The letter informed me that I had infringed upon Susan's copyright and that I was "sailing under the flag of piracy." It asked that I give credit to the source in any exhibition of

the painting and that I agree to seek written permission from her before I made any further reproductions of the painting.

I immediately made an appointment with a lawyer, and I also went online to an artists' discussion group I had long been frequenting, a virtual place hosted by a not-for-profit arts organization called Rhizome.org. Subscribers to this group were given to discussing their philosophies of appropriation, sampling, remixing, and current copyright controversies. To open my situation to public discussion was, for me, a natural thing to do. I thought that if there was an argument to be made this would be the place to make it. I was feeling paranoid, though, so I did not name names or post a link to Susan's photograph. Instead, we limited ourselves to looking at the image of my painting and discussing the reasons why this might be happening to me.

Within a few days I was ready to respond. I wrote a letter to Susan's lawyer. As requested, I would include a credit line in all current and future displays of the painting itself, as well as on any reproductions, citing Susan's photograph as its source. But I would not, I said, agree to seek written approval from Susan anytime my painting might be reproduced somewhere. I thought this was too difficult a burden to accept under the circumstances. Susan's lawyer responded with a much longer letter that cited cases to support Susan's position and requested a \$2,000 licensing fee for the additional uses.

I was frightened, and so I decided to remove the image of *Molotov* from my website. When I announced this decision to my online discussion group at Rhizome, though, something unexpected—something interesting—happened.

First, I learned that an artist named Tim Whidden had copied the *Molotov* webpage and uploaded it to his own website, creating a "mirror" page. After he posted the link to Rhizome, several other artists followed suit. Mirrors of *Molotov* started popping up all over the place.

Then things took an even odder turn. An artist named Mark River appropriated a portion of *Molotov* and made a collage depicting this act of mirroring:

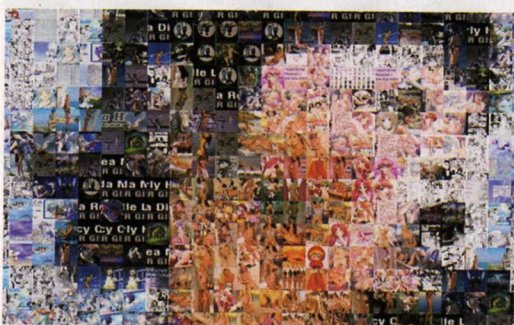
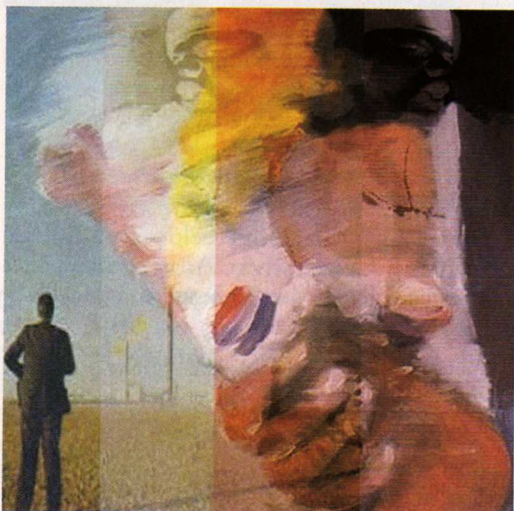


Air Strip and Emo (left), by Joy Garnett. Courtesy the artist.
Artwork (right) courtesy M. River of MTAA

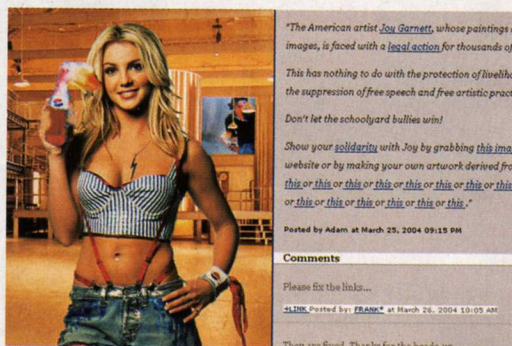
This was the green light: soon, dozens of artists were making “copyfight” agitprop based on *Molotov* in a kind of solidarity campaign. Before long, the campaign came to be known as “Joywar,” a play on words referring to an infamous, earlier legal battle—between etoy, the arts collective, and eToys, the online toy retailer—known as “Toywar.”



Over the course of the next few days, many *Molotov* appropriations were posted on Rhizome.



Then my story hit the blogs and Joywar went global. The story was translated—and mistranslated—onto various blogs and e-zines in French, Italian, Chinese, and Czech. The Italians were es-



pecially horrified, absolutely certain as they were that Pepsi was suing me.



In this swirl of creative agitprop and commentary, several questions came to the fore: Does the author of a documentary photograph—a document whose mission is, in part, to provide the public with a record of events of social and historical value—have the right to control the content of this document for all time? Should artists be allowed to decide who can comment on their work and how? Can copyright law, as it stands, function in any way except as a gag order? These remain open questions for many people. It was a blogger named “nmazca,” however, who posed what has, for me, become the central question in all of the activity surrounding *Molotov*. Referring to the lone figure of that Sandinista rebel, nmazca asked, “Who owns the rights to this man’s struggle?”

