

# **INNOCENT OR GUILTY: Deciding the Fate of Sherrie Levine**

A WebQuest for High School Students

## **INTRODUCTION**

The term “appropriation” has become quite familiar in the art world over the past century. Some artists cut-and-paste, some take images from other artists and alter or use fractions of them in their own work, and some just borrow ideas from other artists. Who owns the image? How much of an original idea does the artist really own? Does one artist have the right to say to another, “You may not use my work as inspiration for your own work?” With the trend of appropriation catching on, many artists, their practices, and the ideals of art have come into question. In this WebQuest, you will help decide the fate of Sherrie Levine, a contemporary artist known for appropriating other artists’ works, and perhaps, of appropriation itself!

**Appropriation:** The borrowing or taking of an image, text, music, or style from the present or past and representing it in a new context and as an original idea.

## **TASK**

Sherrie Levine is a contemporary artist who has made a name for herself by using forms of appropriation. She has created her own works by taking images of famous photographs and works of art and placing them into new contexts. When talking about her work in an interview, she says, “I am interested in making a work that has as much aura as its reference. For me the tension between the reference and the new work doesn’t really exist unless the new work has an artistic presence of its own. Otherwise, it just becomes a copy, which is not that interesting.”

A group of artists have approached your class to hold a trial defending their creative rights. These artists’ works have been appropriated by Sherrie Levine and as a result, they feel their rights as the original creators have been infringed upon. Your class will hold a trial, with all students participating in deciding the fate of Sherrie Levine.

## **PROCEDURE**

Your art teacher will serve as judge and preside over the hearing of the case, as an impartial referee, and ensure that proper procedures are followed:

- Randomly select five members of the class to serve as jurors. As an alternative, the jury members could consist of students from another class, other teachers, administrators, visiting artists, or parents. Choose one member of the class to serve as the bailiff, who will be responsible for keeping order in the courtroom and swearing in all witnesses.
- Create a set of cards that equal the number of students in the class. Write the following names on five cards: Sherrie Levine, Andy Warhol, Roy Lichtenstein, Marcel Duchamp, and Mile Bidlo (one name on each card). Students who receive these cards will act as each persona to answer questions if called to the stand. Then divide the remaining number of cards by two, marking half with the letter ‘P’ and the other half with the letter ‘D.’ The students who receive a ‘P’ card will act as prosecutors representing the angered artists and students who receive a ‘D’ card will defend Sherrie Levine. Randomly distribute the cards to every student in the class (except for the jurors and bailiff).
- Once you receive a role, meet with the other students in your group of either prosecuting lawyers, defense lawyers, or artists. Complete the worksheet for your respective roles (lawyers or artists) and discuss your findings with your group members. Construct a unified view on the issue of appropriation that your group will argue in court.
- The Resources page will lead you to Web sites that will help you complete your research to be prepared for the trial. You may also use local resources to prepare for the trial.
- Each team of lawyers will prepare a set of questions for the witnesses based on the research. Remember that opinion questions are not appropriate questions for the courtroom (For example: “How do you feel/think. . .?”) A written closing statement should be prepared for the close of the trial. This statement will be your final, convincing argument to the jury.

## **FOR STUDENTS ROLE-PLAYING ARTISTS**

Using the Artist Worksheet, research and answer as many of the items on your artist as you can. If you are unable to find an answer to a specific item, you will need to speculate on how you think the artist would respond to the question based on your research of his or her work. In addition to the Web sites provided on the Resources page, you may use local resources such as the public library, school library, or available classroom materials. Remember that you may be called to the witness stand by either the prosecution or defense. Your task is to know enough about your artist that you can assume his or her identity, if called upon to testify.

## **FOR STUDENTS ROLE-PLAYING LAWYERS**

As members of the prosecution or defense team, your task requires becoming knowledgeable of all the facts in the case and developing the arguments that will result in the jury deciding in your client's favor. This means you need to learn about copyright; appropriation in art; the work of the defendant, Sherrie Levine; as well as other artists who use appropriation in their work.

The Web sites listed on the Resources page contain information that will help you to prepare for trial. In addition to these Web sites, you may use the public library, school library, or any other resources that you feel might help you to build your case.

The questions listed on the Lawyer Worksheet will guide your research. Additional questions may arise in the course of your research that will also need to be addressed. The best way to approach this task is to divide up the questions among your team members and then have each member report their findings back to the group. Once you have completed your research, you will need to sort through the information you've found, decide what is most relevant to the case, and then formulate questions for your witnesses and the arguments you will use in the trial.

Courtroom Tips: Good lawyers know how important it is to get their points across quickly and use the evidence they obtain to "tell a story." Good lawyers also know that there are two sides to every story and that both sides need to be presented in the strongest way possible. Your challenge is to convince the jury that your version of the story is the most believable or compelling, given the evidence and the law.

## **RESOURCES**

### **Copyright Sites**

U.S. Copyright Office  
[www.copyright.gov](http://www.copyright.gov)

Introduction to Copyright  
[www.templetons.com/brad/copyright.html](http://www.templetons.com/brad/copyright.html)

10 Big Myths About Copyright Explained  
[www.templetons.com/brad/copymyths.html](http://www.templetons.com/brad/copymyths.html)

Copyright Basics  
[www.copyrightkids.org/cbasicsframes.htm](http://www.copyrightkids.org/cbasicsframes.htm)

Fair Use (U.S. Copyright Law)  
[www.copyright.gov/fls/fl102.html](http://www.copyright.gov/fls/fl102.html)

Copyright Basics: Public Domain (Bottom of Page)  
[www.benedict.com/info/law/publicDomain/publicDomain.aspx](http://www.benedict.com/info/law/publicDomain/publicDomain.aspx)

Exclusive Rights in Copyrighted Works  
[www4.law.cornell.edu/uscode/17/106.html](http://www4.law.cornell.edu/uscode/17/106.html)

The Law - Fair Use (Bottom of Page)  
[www.benedict.com/Info/Law/FairUse.aspx](http://www.benedict.com/Info/Law/FairUse.aspx)

Artist Rights Society  
[www.arsny.com](http://www.arsny.com)

Friends of Active Copyright Education (FACE)  
[www.csusa.org/face](http://www.csusa.org/face)

### **Court Cases**

Rauschenberg Court Case  
[www.benedict.com/Visual/Rauschenberg/Rauschenberg.aspx](http://www.benedict.com/Visual/Rauschenberg/Rauschenberg.aspx)

Hoepker v. Kruger  
[www.ncac.org/art-law/sum-hoe.cfm](http://www.ncac.org/art-law/sum-hoe.cfm)

Court Opinion: Rogers v. Koons  
[en.wikipedia.org/wiki/Rogers\\_v.\\_Koons](http://en.wikipedia.org/wiki/Rogers_v._Koons)

Derivative Works And Copyright by Mary Ann Fergus  
[www.asopa.com/publications/2000winter/law.htm](http://www.asopa.com/publications/2000winter/law.htm)

### **Sherrie Levine**

Sherrie Levine (on Wikipedia)  
[en.wikipedia.org/wiki/Sherrie\\_Levine](http://en.wikipedia.org/wiki/Sherrie_Levine)

After Sherrie Levine (1985 Interview with the Artist)  
[www.artnotart.com/sherrielevine/arts.Su.85.html](http://www.artnotart.com/sherrielevine/arts.Su.85.html)

After Walker Evans: 2, 1981  
[www.metmuseum.org/TOAH/hd/pcgn/ho\\_1995.266.2.htm](http://www.metmuseum.org/TOAH/hd/pcgn/ho_1995.266.2.htm)

Fountain After Duchamp by Sherrie Levine (1991)  
[www.artnet.com/magazine/features/cfinch/finch5-7-4.asp](http://www.artnet.com/magazine/features/cfinch/finch5-7-4.asp)

Fountain by Marcel Duchamp (1917/1964)  
[collections.sfmoma.org/Obj25853\\$63256](http://collections.sfmoma.org/Obj25853$63256)

After Van Gogh by Sherrie Levine (1993)  
[www1.uol.com.br/bienal/24bienal/rot/erotcanlevi03a.htm](http://www1.uol.com.br/bienal/24bienal/rot/erotcanlevi03a.htm)

Van Gogh's "Self-Portrait with Felt Hat" (1887-88)  
[www.auralaura.com/felthat.html](http://www.auralaura.com/felthat.html)

### **Other Artists Who Use Appropriation**

Duchamp's "L.H.O.O.Q." (Altered Mona Lisa)  
[www.artofcolour.com/in-depth/mona-lisa/duchamp-mona-lisa.JPG](http://www.artofcolour.com/in-depth/mona-lisa/duchamp-mona-lisa.JPG)

Selected Works by Duchamp  
[www.beatmuseum.org/duchamp/marcelduchamp.html](http://www.beatmuseum.org/duchamp/marcelduchamp.html)

Marcel Duchamp  
[humanitiesweb.org/human.php?s=g&p=c&a=i&ID=125](http://humanitiesweb.org/human.php?s=g&p=c&a=i&ID=125)

The Roy Lichtenstein Foundation  
[www.lichtensteinfoundation.org](http://www.lichtensteinfoundation.org)

Lichtenstein in Cubist Style  
[www.stanford.edu/dept/news/stanfordtoday/ed. . .](http://www.stanford.edu/dept/news/stanfordtoday/ed...)

Lichtenstein in Cubist Style  
[www.washacadsci.org/lichtenstein.jpg](http://www.washacadsci.org/lichtenstein.jpg)

Whaam! Suddenly Roy was the darling of the art world  
[www.telegraph.co.uk/arts/main.jhtml. . .](http://www.telegraph.co.uk/arts/main.jhtml...)

Roy Lichtenstein and Cubism  
[www.metmuseum.org/collections/view1.asp. . .](http://www.metmuseum.org/collections/view1.asp...)

Example of Comic Book Style Appropriated by Lichtenstein  
[www.ssa.gov/history/pics/comic2.JPG](http://www.ssa.gov/history/pics/comic2.JPG)

Micky Mouse by Andy Warhol  
[www.progressiveart.com/warhol/mickey\\_mouse.htm](http://www.progressiveart.com/warhol/mickey_mouse.htm)

Moon Walk by Andy Warhol  
[www.progressiveart.com/warhol/moonwalk.htm](http://www.progressiveart.com/warhol/moonwalk.htm)

Warhol Images  
[www.imageexchange.com/featured/warhol/posters.shtml](http://www.imageexchange.com/featured/warhol/posters.shtml)

Warhol's "Campbell's Tomato Soup"  
[cs.clark.edu/~hum101/Humanities\\_101/images/ot\\_13.jpg](http://cs.clark.edu/~hum101/Humanities_101/images/ot_13.jpg)

Warhol Biography  
[www.warholfoundation.org/biograph.htm](http://www.warholfoundation.org/biograph.htm)

Andy Warhol Museum  
[www.warhol.org](http://www.warhol.org)

Gallery of Warhol and Lichtenstein Work  
[www2.kenyon.edu/depts/iphs/projects/pop.up/art.htm](http://www2.kenyon.edu/depts/iphs/projects/pop.up/art.htm)

Jasper Johns - Flag  
[www.metmuseum.org/toah/hd/john/hd\\_john.htm](http://www.metmuseum.org/toah/hd/john/hd_john.htm)

Mike Bidlo. Interview with Francis Naumann  
[www.paolocurti.com/bidlo/bidlobook.htm](http://www.paolocurti.com/bidlo/bidlobook.htm)

Not Warhol (Brillo Boxes, 1969), 1991 by Mike Bidlo  
[www.tate.org.uk/magazine/issue3/consume\\_image3.htm](http://www.tate.org.uk/magazine/issue3/consume_image3.htm)

Not Pollock (Number 27, 1950), 1983) by Mike Bidlo  
[www.askart.com/artist/B/mike\\_bidlo.asp?ID=30405](http://www.askart.com/artist/B/mike_bidlo.asp?ID=30405)

Mike Bidlo - The Fountain Drawings (#2682 from the Series)  
[www.artnet.de/artwork/37560/\\_Mike\\_Bidlo\\_The\\_Fountain\\_Drawings. . .](http://www.artnet.de/artwork/37560/_Mike_Bidlo_The_Fountain_Drawings...)

The Real Thing - Group Show (Appropriation 1965 to the Present)  
[www.stevenwolffinearts.com/dynamic/exhibit\\_artist.asp?. . .](http://www.stevenwolffinearts.com/dynamic/exhibit_artist.asp?...)

Self Portrait Mona by Salvador Dali  
[www.studiolo.org/Mona/MONA14.htm](http://www.studiolo.org/Mona/MONA14.htm)

### **Other Examples of Appropriation**

Mona Lisa Ad  
[www.artofcolour.com/in-depth/mona-lisa/mona\\_ad.jpg](http://www.artofcolour.com/in-depth/mona-lisa/mona_ad.jpg)

Mona Lisa in Book Cover Art  
[www.studiolo.org/Mona/MONA39Th.htm](http://www.studiolo.org/Mona/MONA39Th.htm)

American Gothic Parodies  
[www.loubeach.com/Amgoth.html](http://www.loubeach.com/Amgoth.html)  
[www.mindspring.com/~heidiw/Punk.Gothic.jpeg](http://www.mindspring.com/~heidiw/Punk.Gothic.jpeg)

### **Articles on Appropriation**

Appropriation (art)  
[en.wikipedia.org/wiki/Appropriation\\_art](http://en.wikipedia.org/wiki/Appropriation_art)

Appropriation  
[www.tate.org.uk/collections/glossary/definition.jsp?entryId=23](http://www.tate.org.uk/collections/glossary/definition.jsp?entryId=23)

Makers and Takers: Art and the Appropriation of Ideas (2002)  
[www.recirca.com/backissues/c101/hmckerveydlong.shtml](http://www.recirca.com/backissues/c101/hmckerveydlong.shtml)

Sherrie Levine is Appropriated by Another Artist  
[www.wired.com/news/culture/0,1284,43902,00.html](http://www.wired.com/news/culture/0,1284,43902,00.html)

AfterSherrieLevine.com (Appropriation of Levine)  
[www.AfterSherrieLevine.com](http://www.AfterSherrieLevine.com)

Derivative Work Rights  
[www.artslaw.org/DERIV.HTM](http://www.artslaw.org/DERIV.HTM)

Derivative Works  
[www.chillingeffects.org/derivative](http://www.chillingeffects.org/derivative)

Copyright Protection and Appropriation Art by William M. Landes  
[culturalpolicy.uchicago.edu/conf1999/landes.htm](http://culturalpolicy.uchicago.edu/conf1999/landes.htm)

## CONCLUSION

The trial concludes by having the jury deliver their verdict to the class. Following the reading of the verdict, have the jury discuss how they reached their verdict and which arguments they felt were most compelling and why. As a class, discuss how opinions on copyright and appropriation in art changed, or became more informed, as a result of the trial. Each student will then write a one-page paper discussing what they learned from the trial experience. Part of this paper could be a comparison of the student's stance about Levine's "innocence" or "guilt" at the beginning and the end of the trial. A Copyright Quiz is also provided to test students' knowledge of copyright law and related issues. In sum, the follow-up discussion, students' written reflections, worksheets, and responses on the quiz can be used to assess the outcomes of this WebQuest and its effectiveness as a learning resource.

## TEACHER TIPS

- If you plan to use this WebQuest more than once, make a set of laminated cards to have as a resource for the future.
- Before starting this WebQuest, discuss with your students what they know about copyright and appropriation. This discussion can be used in the assessment as a starting point to compare to students' final statements.
- For the final assessment, collect students' worksheets, final written statements, and responses to the copyright quiz.
- On the day of the trial, arrange the classroom furniture to resemble as much as possible a courtroom.
- To maintain classroom management during the trial, assume the role of the judge. Locate a robe and a gavel to use in your capacity as judge.
- This WebQuest may take considerable time to complete, depending upon the number of Internet-based computers available and how often the class meets. If only a few computers are available for group work, you might printout information available on some of the Web sites listed in the resources section so that students can also conduct their research offline.
- To keep the trial on schedule and the students on task, it may help to go over the various phases of the trial with your students prior to starting this WebQuest. The **Discovery Phase** of the trial is where students do research, gather evidence, and determine how they will present their case in court. It is helpful at this point to have each team of lawyers choose a lead attorney to present their case at trial. **Pre-trial motions** is where the lawyers for each side attempt to influence the evidence and arguments that will be allowed in the trial. One example of a pre-trial motion is a "motion to dismiss," which asks the judge to dismiss a case for lack of evidence or legal merit. The judge has the final say in ruling on all motions. Since the jury is already determined in this case, the next phase would be **the trial** itself. To start the trial, the bailiff calls everyone to order and the judge enters the courtroom. Each side presents their case, with the prosecution going first and the defense following with their arguments. Witnesses may be called to the stand and sworn in by the bailiff. Should either side need to present evidence gathered from the Web, PowerPoint software, a computer, and an LCD projector can be used. Otherwise, physical evidence can be presented in paper form. Once each side has finished presenting their arguments, the jury goes into **deliberations**. Remind the jury of the need to select a "jury foreperson" to help things run smoothly during their deliberations. Once the jury has reached a verdict, the court is called to order again and the **verdict is read**. The defendant is declared either guilty or not guilty on the charge. If the jurors are unable to reach agreement, there is a "hung jury," and a mistrial is declared. If a guilty verdict has been pronounced, a **sentencing phase** takes place in which the judge decides the punishment.
- An additional resource to have in your classroom or library is Postmodern Currents by Margaret Lovejoy. It will also be helpful to have additional resources available in the classroom on the artists discussed in this WebQuest as well as Copyright Law.
- Consider inviting a local lawyer to class to discuss copyright issues with the students.
- As a possible extension, have students create their own works of art that appropriate ideas from other artists or popular culture.