



Images

The newsletter of the VRA

May 2011 vol.8, no.2

Memo from the President

By Maureen Burns Burns (Archivision and IMAGinED Consulting)
President, Visual Resources Association

We did it—VRA + ARLIS/NA “collaborated” and “built bridges” at the 2nd Annual Joint Conference in Minneapolis! In many ways, the two organizations combined were greater than the sum of the separate parts with a productive and stimulating exchange of knowledge, experience, and ideas. With over 500 attendees, there were tremendous opportunities for professional development, networking, socializing, and enjoying Minneapolis’ rich cultural heritage and contemporary arts scene. It was a whirlwind of activity that we are still recovering from and processing. Virtual experiences are available for those who were unable to attend—peruse the backchannel tweets (#vra_arlis2011), look at the images in Flickr, and obtain conference content from the Powerpoint presentations posted in SlideShare, all available at <http://www.vraweb.org/conferences/past.html>. Timely, informal news was shared and continues to be posted through vehicles like *Images* and the conference blog <http://vraarlis2011.wordpress.com/>. Of course, we encourage members of both organizations to turn their research and conference presentations into full-fledged articles for the *VRA Bulletin* and *Art Documentation*. Expect to hear more about VRA’s transition to an electronic journal in the Digital Commons soon, complete with information about how you can participate in the process.

Clearly, our Twin Cities colleagues wanted us to have the full experience of a Midwestern Spring with a bit of heavy weather at the beginning (my first sleet, slush, and snow altogether experience), but then it was nothing but sunshine. On behalf of the Board and all the VRA membership, I would like to express our sincerest gratitude to our colleagues from the VRA Midwest Chapter and ARLIS/NA Twin Cities Chapter for their many years of hard work and extraordinary hospitality (credits below). The conference was beautifully planned and artfully executed—congratulations on a job that went way beyond well done! We owe a huge debt of gratitude to the Big Four who led the charge:

- Local Arrangements Co-Chairs—Rebecca Moss and Brian Shelburne
- Conference Program Co-Chairs—Jessica McIntyre and Heidi Raatz

Their positive focus on this joint endeavor, hard work, flexibility, creative thinking, agility, and resilience are what made this conference so substantive and successful.

One of the trickier aspects of the joint conference planning was something that sounds simple, but was anything but, i.e., trying to merge everything that we logically and logistically could and minimize separate events that would only serve one constituency or the other. We could not have accomplished this without the flexibility and cooperation of all the committees, chapters, and other organizational entities, who made terrific efforts to collaborate. It was great to see overlapping gatherings and a great comingling of members from both groups. Also, the program proposals were extraordinary—they fit in so well with the conference theme and/or were current topics of interest to both organizations. When it gets right down to it, it is the content you propose and present at the conference that determines its success. Without your participation—whether you are presenting, recording, getting involved in discussion, or other volunteering—there wouldn’t be much to these annual gatherings. Your wonderful efforts and spirit of volunteerism make the conference and VRA as a whole a vital forum for information

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Contributions to **Images** are due the 15th of the month before the issue. Please send your copy in ".doc" format and Arial font to Marlene Gordon - mgordon@umich.edu.

professionals. Thank you to everyone who joined in on Minneapolis. If you couldn't come this year, please plan on participating in the 2012 VRA conference in Albuquerque, which will mark our 30th anniversary. If you want a preview of what is in store for us in New Mexico, Cindy Abel Morris gave a wonderful presentation at the business meeting that is up in [SlideShare](#).

Thank you for the support of our many generous sponsors <http://www.vra-arlis2011.org/sponsors.html> who helped to sustain our programs and programming, such as travel awards, conference sessions, and social events—the VRA Foundation among them. Chapter donations from both VRA and ARLIS helped with the costs of the festive Walker Art Center “Icebreaker.” It was quite a treat to wine, dine, and wander the galleries of such exciting contemporary arts venue together. Not on the menu, but a flesh dress was in the galleries! Thank you to all the members who joined in the festivities and contributed to the Founders’ Fete fundraiser at the Gale Mansion. There was a great video presentation documenting the history of both organizations and our own, Chris Sundt, stepped up to share some reminiscences about the early days of VRA. While the indefatigable Allan Kohl (with family and friends) in period dress provided live musical entertainment complete with sheet music projections for sing alongs. Many attendees used their member-for-a-day passes to see the Titian show at the fabulous Minneapolis Institute of Arts too. Our esteemed exhibitors also provided financial support through registration, sponsorships, and generous donations to the silent auction. One of the many benefits of meeting with ARLIS is an extensive exhibits hall (about 45 commercial partners were there) where we can sample and learn about the resources, tools, services, and the great support these wonderful colleagues provide. Many participated in the Vendor Slam for the first time providing dynamic presentations and answering questions. The bidding was fast and furious for the many treasures associated with the silent auction and the closing ceremony included a hilarious parody of Jeopardy, complete with “Allan” Trebec and three players responding with trivia about our organizations. Our own Karen Kessel and Bob Willis got aced out by ARLIS’ Amy Ciccone in the end, but only by a whisker. It was the Empress’ swan song as she stepped down as the Coordinator of Internal Development and she did this as elegantly, hilariously, and magnanimously as ever.

The joint conference also provided many opportunities for the Executive Boards of both organizations get to know each other and share leadership experiences. Thank you to the constituents of both Boards, past and present, for your commitment to this joint venture, great ideas, hard work, and support. The VRA Board, who started out thinking a joint conference with assistance from ARLIS and the local planning team would be less work, found out very quickly that it was more. Their willingness to jump in wherever needed, flexibility, and nimbleness was most impressive and much appreciated. The two new Board members, Jolene de Verges and Steven Kowalik, hit the ground running at the conference and are already wonderful additions to the team. We find ourselves missing Allan Kohl and Heidi Raatz, but know they will continue to find ways to contribute their many talents to VRA. It was an absolute pleasure to partner with the inimitable Mari Russell, currently ARLIS Past-President, whose warmth and collegiality never wavered, even when the stress levels rose. We became the inseparable M&Ms taking care of business and collaborating on conference events, while meeting our personal goal of also having fun! It was an honor to collaborate with the bright and capable Jon Evans, the new ARLIS President, on the leadership breakfast. There we compared the crucial issues that each organization is facing and considered convergences to stimulate discussion among the leaders of both organizations about the future. Elaine Paul is to be thanked for following up her task force work with a lively discussion forum focused on “Organizational Collaboration: Building Bridges Between ARLIS/NA and VRA.”

There is so much more that could be said and probably will be said about the wonderful experience that was the Minneapolis joint conference. A great deal of work was accomplished by the VRA Board in the annual meetings, so stay tuned for more announcements soon. Thank you for the opportunity to serve as your President, it is an honor and a pleasure.

THANK YOU TO THE 2011 VRA + ARLIS/NA

CONFERENCE PLANNING COMMITTEES

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- Rebecca Moss, Co-Chair
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- Chris Roper & Technical Enterprises, Inc.

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Images News

By Marlene Gordon (University of Michigan-Dearborn)

The Board has approved the recommendation to change the format of the VRA Newsletter to a blog format. The decision was made on the recommendation of a sub-group of the Publishing

Advisory Group (PAG). Blogging software will allow the Images staff to improve a more visually appealing design; provide flexibility for authors and editors; organize content into categories and subcategories and tag post with keywords; integrate photos and videos; and integrate RSS feeds so readers can automatically keep up with your latest posts. Since there are many issues to sort out, a timeline for the conversion has not been determined.

Intellectual Property Rights News

Exploring the role of the Librarian and the Citizen in the DMCA

Ryan Brubacher (Occidental College)

First, let it be stated that in writing about Prince v. Cariou I am not making any claim about the intent of Richard Prince or the artistic merit of the works considered in the case. My concern is with how the interpretation of art plays out in a legal context. As a test, I took the entire Prince, et al v. Cariou report from Lexis Nexis and put it into Wordle. One can view the results, <http://www.wordle.net/show/wrdl/3480319/Princev>. It looks like one would expect with some obvious copyright terms like copyright, use, fair, and transformative, along with typical legal jargon. But there is one word in particular that interests me, and I must draw your attention to it, because it is quite small. Its scale determined by times used, the word I am most curious about, is "art". Almost in the exact center in sea green, you will find it.

In this Wordle representation of the case, art is obscured. What does it mean that a case report about artworks doesn't discuss art with at least an equal frequency to "works" or for that matter, "entertainment", "capitalizing", "markets", and "ownership"? Turns out Wordle has issues with understanding the same word in lowercase and uppercase form, so art, arts, artistic, artist, and artworks do show up more than one time (though no more than five) in the report, yet aren't represented in the Wordle. But, what the heck, I am going to draw unsubstantiated conclusions from this anyway. I don't think it's only an inaccurate word cloud that suggests the current copyright climate understands work, as a commodity object, as more important than art, in the sense of a practice, skill, or a cultural act.

The idea of copyright law itself focuses on an object, in particular one "fixed in any tangible medium"¹, and the four factors of Fair Use seek to understand the relation of this work/object to other objects, their use, and how they, as commodity, function within the market of other works. The law's relation to artistry, or the known practices of a particular type of artist, or the latest criticism and scholarly research about artists and art making, is only seen in newer interpretations that have made the idea of transformativeness, more and more important. This suggests something of an idea of practice and intent, but not a lot. In the actual progression of a trial, at least in the Prince v. Cariou example, it appears that the "work" as marketable object is the focus, rather than "art" (a particular realm of practice).

Reaching beyond the market, there is also the non-exclusive list of possible *uses* that might be considered fair: "criticism, comment, news reporting, teaching [...], scholarship or research"². In that direction, however, "use" begins to focus too much on a particular person, and their instance of creation. What was the intent? Transformative? How did they use it? Was it going to be sold by the individual? Is the person an educator? These are all very person-centric, which of course is necessary since people are a key ingredient in the creation of works, but it ignores art and artworks as independent of their creators. What about their place within the discourse on art? What do they have to say about a point in history? We don't require ancient works to be original or have named artists before we consider their value in history. Regardless of use or intent, can an artwork be rendered a non-artwork, just like that? According to this case, yes:

...All persons in active concert or participation with them, are hereby enjoined and restrained permanently [...], and from reproducing, adapting, displaying, publishing, advertising, promoting, selling, offering for sale, marketing, distributing, or otherwise disposing of [*41] the Photographs or any copies of the Photographs, or any other of Plaintiff's works, [...] Defendants shall [...] deliver up for impounding, destruction, or other disposition, as Plaintiff determines, all infringing copies of the Photographs, including the Paintings and unsold copies of the Canal Zone exhibition book, in their possession, custody, or control and all transparencies, plates, masters, tapes, film negatives, discs, and other articles for making such infringing copies.³

Technically Prince's photographs still exist, but he cannot sell them, must pretend they

were never sold, must notify all current and future owners that the works are infringing, and it's not clear what the people that bought them are allowed to do. It doesn't sound as if they could appear in a museum exhibit even if not for sale. I wonder whether they can even be *listed* in a *Catalog Raisonné*?

On the one hand, I find it slightly disturbing that the culture of what we might call Art (with a capital A) factors so little in legal proceedings. On the other hand, expecting a more nuanced understanding of art from the courts, judges and lawyers, doesn't necessarily lead to a more advantageous situation. I might prefer to be content with lawyers and judges milling over commoditized things and their putative financial repercussions, than I would be pleased to hear that judges and lawyers had taken over the discussion of what art is, and what artworks do. In this most recent case the judge, after hearing testimony is the ultimate interpreter of the work, not only as commodity but also as art.

On the facts before the Court, it is apparent that Prince did not intend to comment on Cariou, on Cariou's Photos, or on aspects of popular culture closely associated with Cariou or the Photos when he appropriated the Photos, and Pri[n]ce's own testimony shows that his intent was not transformative within the meaning of Section 107, though Prince intended his overall work to be creative and new.⁴

Because legal decisions have the power to solidify interpretations of art, the judge critic has a far more insidious role than the conventional art critic. It is problematic if any *one* interpretation of an artwork appears as the ultimate and correct decoding of an art piece in the historical legal record. I thought we were to the point in art theory that one interpretation was never considered the only interpretation, ever. I don't take issue with a judge being the ultimate interpreter because she is not educated in the arts, and therefore not an expert (though art critics and scholars as expert witnesses wouldn't have been a bad idea). I take issue with the fact that her interpretation as expressed in the final verdict is literally final, notwithstanding appeals, and therefore limiting the possibility of future interpretation.

In closing, whether one agrees with the outcome of this particular case or not, it's necessary to look at the larger ideas and ideologies that are governing the creation of art, and also the *meaning* of art. In the Prince case, when asked about whether his work was a "comment" on the Cariou photographs, Prince voluntarily stated that they were not.⁵ And so it was. Prince, whether through perjury or egomania, asserted his interpretation and intent of his own work as if it were the only one, which the judge in turn assimilated into her final verdict. But who is actually to say whether or not Prince's paintings comment on the photographs of Cariou? Perhaps Prince doesn't think so, but the fact that they were brought to my attention creates the possibility of a comment. I do think they can be read as commentary even if in some weird way I invented the commentary. These are not odd assertions in the scholarship of art and art theory, but they do seem strange to the new realm of judicial art criticism that favors first the market, and second a belief in true "intent". The intricacies, complexities, theories, controversies, practices, communities, and skills of Art with a capital A, are threatened by a legalistic attitude toward art criticism. People who appreciate art need to start taking seriously the implications that legal interpretations have for art as such, and set aside for a moment a personal distaste for the egos of individual artists. There is more at stake than profit; I think this is about the future of Art itself.

1. U.S. Copyright Office. The Copyright Act of 1976. Title 17 *United States Code* <http://www.copyright.gov/title17/92chap1.html>
2. United States. Copyright Office.
3. Cariou v. Prince, 2011 U.S. Dist. LEXIS 29070 (S.D.N.Y. Mar. 18, 2011)
4. Cariou v. Prince
5. Cariou v. Prince

Suggested Related Readings:

- Hyde, Lewis. *The Gift: Creativity and the Artist in the Modern World* (New York: Vintage Books, 2007)
- Lethem, Jonathan. "The Ecstasy of Influence: A Plagiarism" *Harper's Magazine*, February (2007): 59-71. <http://harpers.org/archive/2007/02/0081387>
- McLeod, Kembrew. *Owning Culture: Authorship, Ownership, and Intellectual*

Property Law (New York: Peter Lang, 2001)

View the latest and previous postings of VRA-IPR News at:
<http://vraiprnews.wordpress.com/2011/04/01/ipr-in-the-news-march-2011/>

Upcoming Conferences

By Brooke Cox (DePauw University)

Summer Educational Institute for Visual Resources & Image Management

June 7-10, 2011
Albuquerque, NM
<http://www.vrafoundation.org/sei2011/>

The American Library Association

June 23-28, 2011
New Orleans, LA
<http://www.alaannual.org/>

CONTENTdm Eastern Regional Users Group

August 1-3, 2011
Towson University, Towson, Maryland
<http://www.libraries.psu.edu/psul/ecdmug.html>

Positions Filled

Compiled by Anne Norcross (Kendall College of Art and Design of Ferris State University)

University of Washington School of Art

In June 2011, Kate Ratcliffe will graduate with a MLIS degree from the University of Washington Information School (also known as the iSchool). Upon graduation, she will assume the position of Manager at the School of Art Instructional Resource Room (SoAIRR) at the University of Washington. This position is a new half-time year-round staff position. As SoAIRR Manager, her responsibilities will include overseeing the School's digital imaging practices, electronic image reserves, and circulating audio-visual equipment collection. Prior to accepting the position of SoAIRR Manager, Kate was the graduate student for the School of Art's Instructional Resource Room. Before coming to the University of Washington, she earned an undergraduate degree in Theatre with Honors from Whitman College (Walla Walla, WA).

Chapter News

Compiled by Trudy Levy (Image Integration, ICCoop)

Northern and Southern California Chapters

Karen Kessel (Sonoma State University)

The Northern and Southern California Chapters of the Visual Resources Association are busy planning a two-day conference on digital image collections, to be held at the University of California, Santa Barbara June 16th & 17th, 2011. Members of the chapters who attended the joint ARLIS/VRA conference in Minneapolis met there together to gather ideas and allocate tasks. Southern California Chapter chair John Trendler has submitted a grant application to the VRA Foundation to help defray the costs of hosting the conference.

The California Visual Resources Association Conference, also known as CaVraCon, will offer educational opportunities dealing with the many aspects of creating, managing and maintaining digital image collections, as well as the chance to network with both emerging professionals and veterans of the field. The conference will be open to any interested parties, regardless of organizational or institutional affiliation.

While the full schedule of events is still being formed, the program will include the following:

- A workshop with Patricia Harpring of the Getty Vocabulary Program, who will address the application of the Getty authorities and local authorities for

describing cultural objects according to the rules established in *Cataloging Cultural Objects* (CCO) and the Getty Center's *Categories for the Description of Works of Art* (CDWA). In addition, she will introduce participants to the Getty's new Cultural Objects Name Authority (CONA), a work in progress.

- A presentation by George Helfand representing Luna Imaging, Inc., on the subject of incorporating images of books into image delivery systems.
- Megan Marler, Senior Analyst for Strategic Initiatives at ARTstor, will present a demo of ARTstor's Shared Shelf.
- Jan Eklund and Chris Hoffman, UC Berkeley, will introduce CollectionSpace, a community-source management system designed to address the challenges faced by institutions stewarding multiple and diverse collections, and will talk about their experience applying this program in the History of Art Department Visual Resource Collection at their campus.
- Metadata wizards Greg Reser from UCSD and Sheryl Frisch from Cal Poly SLO will demonstrate the use of Metadata panels in Adobe Photoshop's Bridge and how they have customized them to serve the needs of image curators in a hands-on session.
- Tom Moon, of UCSB, will discuss how he introduced cross-polarization techniques into his copy stand procedures, along with basic photographic tools such as camera calibration, color management, filters and filtration, and Photoshop actions in the context of best practices and automating workflow.
- Lois McClean and Rick Tessman, representing McClean Media, will introduce attendees to Content Clips (CC), a free online teaching tool, being developed with funding from the NSF's National Science Digital Library program. Its web-based framework can dynamically display multimedia objects from one or more collections to let users manipulate them through a single interactive interface.
- Photographer James Kiracofe will display some of the work he has done that is available to add to our collections.

Updates on the mini-conference will be posted on the CaVraCon website at: <https://sites.google.com/site/cavraconference/>

Other Northern California Chapter news: Heather Cummins has resigned as co-chair of the chapter. Karen Kessel remains as the singular chair until her term expires in the fall. Nominations are being welcomed for election of a new chair at the Santa Barbara meeting.

Pacific Rim Chapter

Submitted by Joshua Polansky (University of Washington)

Ten members from the Pacific Rim Chapter attended the joint VRA+ARLIS/NA conference in Minneapolis in March. We held an informal meeting there to discuss chapter goals and upcoming events. In the spirit of continued collaboration between our two professional organizations, we are extending invitations to our Pacific Northwest ARLIS/NA colleagues when our chapters conduct lunchtime and happy hour meetings in Seattle and Portland this spring.

Two recipients of the Samuel H. Kress Foundation Summer Educational Institute Scholarships are from the Pacific Rim Chapter. Emma Wolman, Digital Assets Manager at the Portland Art Museum and Melissa A. Gill, MLIS student at the University of Washington will attend this year's session in Albuquerque. Congratulations, Melissa and Emma!

Texas Chapter

Katherine Moloney (Amon Carter Museum of American Art)

VRA-TX will move our virtual meeting from spring to late June. Adrianna Stephenson, head of the Lady Tennyson d'Eyncourt Visual Resources Library at Southern Methodist University in Dallas, will report on her recent experience at the Summer Education Institute. The meeting date has not been confirmed yet, but it will be during the last two weeks of June.

The joint meeting with our ARLIS/NA friends at the recent VRA conference was such a success we are going to have a joint meeting in Fort Worth October 27 – 29. The

weekend will include tours of the Kimbell Art Museum and the Amon Carter Museum of American Art, plus other activities unique to the Fort Worth area. Anyone interested in joining our group should contact Katherine Moloney at katherine.moloney@cartermuseum.org for more information.