

### **Question for “Editing To Make A Point” Roundtable:**

One of the most powerful (and often invisible) visual codes is that of editing. Usually editing is employed to create the illusion of movement and action. But sometimes, in subtle or not so subtle ways, editing is used “to make a point.” How do professional editors and teachers of film and television studies use editing to make a point—for entertainment, for enlightenment, for instruction, to create a visual simile or metaphor? How does this kind of editing fit into the longer work that is being created? And how does this kind of editing fit into a larger history of editing?

### **Response by Bernard M. Timberg, Roundtable Convener**

#### **“Can Law and Technology Drive Aesthetics and Change? The Rise of the Commentary Montage”**

The questions posed for the Roundtable on “Editing to Make A Point” are rather broad, but my own core interest revolves around what has been variously called “compilation film,” “found film,” “montage critique,” “sampling,” and, in more recent on-line lingo, “re-mix,” “mash-up,” and “appropriationist” video. In short, I am interested in the intercutting of already produced (and distributed) commercial images to make a point about the structural relationships of those images. These film/video/on-line statements typically represent an intersection of aesthetic and social issues. One key work, frequently referred to but inadequately contextualized or defined, is *Atomic Café* (1982), produced, directed and edited by Pierce and Kevin Rafferty and Jayne Loader.

Why have there been so few works of this kind, or at least so few that have received critical attention? How do we define this kind of work generically? How do we talk about it and how does it fit it, or does it fit, into pre-existing critical lexicon? Finally, what are the potentials for this kind of work to continue traditions already established and create new and more imaginative forms?

If we agree that this kind of work is “meta,” that is, always “about” other images, I prefer the term “commentary montage” to the others listed above. It helps put all of these terms under one roof. However raucous or entertaining, however serious or high-minded, these kinds of works always represent a comment, through a juxtaposition, on other images. I come to this term, strangely enough, through wrestling with a legal definition within contemporary minefields of intellectual property law.

The ‘law’ you say? And copyright law at that? Isn’t that the enemy--the hurdle, the barrier filmmakers work against (or around) to make their creative statements? Yes, usually. Contemporary copyright law usually hinders, hampers and restrains filmmakers, channeling them in “safer” or more “defensible” directions. After all, nothing can be broadcast or distributed widely without errors and omissions insurance, and insurers are not particularly eager to incur risks of any kind.

Fortunately, as Hegel reminds us, for every action there is eventually an equal and opposite reaction, though it may take a time to come around. That is where the legal principle of “fair use rights” comes into play, in a swing of the pendulum back from the current copyright regime. If employed actively as a ‘right,’ not a ‘defense,’ or as some kind a surreptitious or vague principle operating “under the radar,” a clear understanding and application of fair use *encourages* creativity, testing limits, taking risks. This is one of the reasons that the AU Center for Social Media/Washington College of law “best practices” movement is so important.<sup>1</sup>

For teachers, scholars, and students, as well as citizens on-line figuring out their own responses to the image-worlds they inhabit, an understanding of fair use and copyright law can become a creative, even inspirational force. It has been for me, and I will be running a short piece in the Roundtable to show what I am talking about.<sup>2</sup>

Taking the broader view, we begin to understand that commentary montage already has a long and fruitful heritage and when we begin to look for it, we discover it—everywhere. It is not just experimental filmmakers like Bruce Conner, Chuck Braverman, Jan Svankmaier, and other “fringe” artists who have practiced it. Or sampling and parody, like Negativland’s notorious send-up of U2 and Casey Kasem on *American Top 40*.<sup>3</sup> This kind of cause celebre is the tip of the iceberg of far more widespread practice. We see it on television in the early 1980s as one of the bargain-basement inventions of “Late Night with David Letterman” to fill its hour of “found” comedy, and it has become since that time one of the essential ingredients of commercial and on-line entertainment. It is of course a continuing feature of the Jon Stewart’s *Daily Show* and the *Colbert Rapport*. “Jib Jab” made its name on an animated cut-art version of it. It appears in the optical film and digital video magic of *Zelig* and *Forest Gump*. If we were to stop to count the number of times it crops up in music videos and commercials in our post-modern image world, it would soon become clear that the commentary montage has become so common we hardly notice it. And it has found its way into the classroom as well. Sut Jhally’s *Dream Worlds* springs to mind.<sup>4</sup>

This is why I would like to discuss defining and theorizing this genre within the “Editing to Make a Point” Roundtable, discussing the ways in which law and technology drive change, and also to propose a world in which teachers, scholars, and educational institutions recognize and welcome the hyphenates: scholar/teacher/writer/producer/editor/entertainers who produce thought-provoking pieces for discussion, for classrooms, for hits on the web, and for work that challenges and inspires students to use editing tools and found images to cross what have become, in our present image world, increasingly artificial boundaries.

I believe that world is here. The question is: how do we theorize it?

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<sup>1</sup> - See <http://www.centerforsocialmedia.org/>.

<sup>2</sup> - The first piece I produced was *Property Is Theft*, based on Pierre Joseph Proudhon’s First Memoir on Property,” a 40-minute audio montage/mix produced in the 1970s using reel-to-reel audio technology that

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played on all of the Pacifica radio stations at the time. Later I produced a 20-minute video montage entitled *The American Monomyth: The Video*, based on John Shelton Lawrence and Robert Jewett's 1976 book of that name, later revised as *The Myth of the American Superhero*, Grand Rapids, Michigan: Eerdman's, 2003. This piece used the then-new Sony-U-Matic 3/4-inch video cassette technology at Iowa State University, with a fair-use ruling by then University attorney Dan Griffin. Going into more recent times, I designed a 22-minute commentary montage to accompany *Television Talk: A History of the TV Talk Show*, University of Texas Press, 2002, and again received a fair use ruling by UT General Counsel Georgia Harper. Two more recent video commentary montages have been included in FLOW: "The 2008 Academy Awards and the Evil Just Outside the Frame," <http://flowtv.org/?p=1187>, and "Launch Texts, Rebound Texts and Commentary Montage: Al Gore's Appearance at the 2007 Academy Awards," <http://flowtv.org/?p=979>, with an explanation of "Fair Use as a Right, Not a Defense" and a Fair Use Declaration of Rights appearing in an issue of FLOW devoted to the first FLOW Conference in fall 2006 <http://flowtv.org/?p=113>.

<sup>3</sup> - *Fair Use: The Story of the Letter U and the Numeral 2* is a 270-page book and ten-track CD released in 1995 by Negativland detailing their lawsuits with U2's record label Island Records regarding their 1991 EP *U2*, explaining their fair use case with legal documents and correspondence.

<sup>4</sup> - Jhally's original video *Dream Worlds* (it has had more recent editions) was a commentary montage on MTV that represented pioneering work in the legal arena, as well as serving as an inspiration for (and one of the first stepping stones to) Jhally's Media Education Foundation in Northampton, MA.