

English



## CONSENT DOCUMENT BLOCK

### CONSENT DOCUMENT

Project ID: 38353 Project title: Art Appreciation

Chief Investigator: Andrew Moshirnia Department of Business Law & Taxation

email: andrew.moshirnia@monash.edu

I have been asked to take part in the Monash University research project specified above. I understand that this research project is explained in the Explanatory Statement Provided Below:

### EXPLANATORY STATEMENT

Project ID: 38353 Project title: Art Appreciation Chief Investigator: Andrew

Moshirnia Department of Business Law & Taxation email:

andrew.moshirnia@monash.edu

You are invited to take part in this study. Please read this Explanatory Statement in full before deciding whether or not to participate in this research. If you would like further information regarding any aspect of this project, you are encouraged to contact the researchers via the phone numbers or email addresses listed above.

#### What does the research involve?

The purpose of this research is to examine how individuals appreciate art and how that appreciation impacts litigation. In this study, you will be asked to provide your opinion on three pairs of artwork in three situations. For each of the situations, you will read a short description and answer a short list of questions. For example, you will be asked a question like this: How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident? You may take as long as you need. We expect that you will be able to complete the

questions asked in approximately 10 minutes. You will not be contacted for follow up interviews or surveys upon completion of this study.

### **Why were you invited for this research?**

Prolific is being used as a way to recruit subjects for this study due to the accessibility of the platform. The researchers have not obtained and will not obtain your personal contact information.

### **Consenting to participate in the project and withdrawing from the research**

The consent process for this study involves reading over a consent document presented as a part of the survey instrument and clicking "I CONSENT." You have the right to withdraw from further participation at any stage. You may refuse to participate or quit at any time without incurring any penalty. You will only be paid if you complete the questionnaire, however. Because the submission is an anonymous survey, it will not be possible to withdraw data once you have submitted all your responses. If you have chosen not to participate, you will not be penalised and you may take part in other Prolific Tasks.

### **Possible benefits and risks to participants**

The benefits of this study to the participant is payment and contributing to a better social understanding of how people appreciate art and how that appreciation impacts litigation. If you complete all of the questions in this HIT, you will receive \$1.85 through Prolific. The standard policies and procedures regarding payment through Prolific apply. Subjects are exposed to only minimal risks. Participants may find it difficult or stressful to consider a hypothetical scenario and may wonder as to the purpose of the study. The Instrument narrative (which is relatively short and has been tested for readability) attempts to simplify this process so as to reduce participant stress. There is always a risk of a breach of confidentiality of information stored even on secure servers. We are committed to respect your privacy and to keep your personal information confidential.

**Possible risks include:** stress at completing the survey (low frequency, low severity as you may stop participating at any time) and potential breach of confidentiality (low frequency, low severity as the survey contains minimal information linked to participants' information). However, there is no risk that may come from others identifying your participation in the research, as the survey asks about hypotheticals and does not involve real-world parties.

## Payment

If you complete all of the questions in this task, you will receive \$1.85 through Prolific. The standard policies and procedures regarding payment through Prolific apply. You have the right to withdraw from further participation at any stage. You may refuse to participate or quit at any time without incurring any penalty. You will only be paid if you complete the questionnaire, however.

## Confidentiality

The data collected contains minimal identifying information. You will be paid for completion of this through your Prolific account, which requires some personal identification. Your question responses, however, will not contain personal identifying information and will be collected and maintained as anonymous responses. To prevent people from completing the study more than once, we will temporarily store the Internet Protocol (IP) address associated with the device by which you responded online (every device connected to the Internet has a unique address in the form of numbers), so that we can remove any duplicate response from the same IP address. We will store the IP address separate from question responses so they are anonymous, and we will delete the IP address after the study is complete. Your data will only be discussed in law journal articles or other publications which will report results in the aggregate. Your individual data will not be included in the article. Any demographic information will be further stripped from the data set in case of data sharing with journal editors. Individual users will be unable to be identified in this process.

## Storage of data

Your data will be stored electronically on a password-protected Qualtrics account and on a secure Monash password-protected laptop computer. Your full data will only be accessed by the chief researcher, Andrew Moshirnia, and your demographic-stripped data may be accessed by members of the research team. Research data will be kept after completion of the project and then destroyed, by erasing the response files from Qualtrics and the laptop.

## Results

Participants may access the findings in the form of a journal article. If it is accepted for publication, a link to a published version of the article will be available on Andrew Moshirnia's Monash University Research page:

<https://research.monash.edu/en/persons/andrew-moshirnia>. A link to a draft version of the article will be available on Andrew Moshirnia's SSRN.

## Complaints

Should you have any concerns or complaints about the conduct of the project, you are welcome to contact the Executive Officer, Monash University Human Research Ethics Committee (MUHREC): Executive Officer Monash University Human Research Ethics Committee (MUHREC) Room 111, Chancellery Building D, 26 Sports Walk, Clayton Campus Research Office Monash University VIC 3800 Tel: +61 3 9905 2052 Email: [muhrec@monash.edu](mailto:muhrec@monash.edu) Fax: +61 3 9905 3831

I have read and understood the Explanatory Statement and I hereby consent to participate in this project.

**By clicking, "I CONSENT" I consent to the following: I CONSENT to taking part in a survey experiment, as explained above, through Amazon Mechanical Turk. I understand that I may only take the survey one time.**

Please save or print a copy of this consent form for your records. You may save a copy of this consent document by using the print function in your web browser and selecting the pdf format. You may only take the survey one time, so please be careful to make sure that you are satisfied with your answers before you exit the survey.


THANK YOU!

- I consent, begin the study
- I do not consent, I do not wish to participate

## Beginning Block

Visual and CAPTCHA CHECK

This study requires you to view images. To check that your device can display images properly, please complete the tasks below.

I'm not a robot   
reCAPTCHA  
Privacy - Terms

In the text box below, please write the number you see in the picture



Please provide your Prolific ID in the box below

### Randomizer

In an effort to make sure that the questions you receive are properly distributed and accurately read, please select this number: 12

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

- 9
- 10
- 11
- 12

### AVB-FU-X

Please view the picture below, painted by Artist A.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

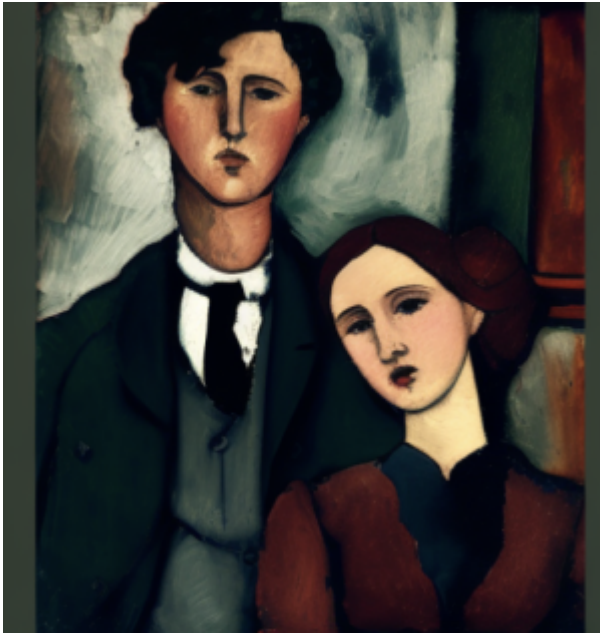
How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, created by Artist B using an AI program.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### Case 2: Artist A v. Artist B

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork based on the fair use defense. Under the law, a fair use is not an infringement of copyright.

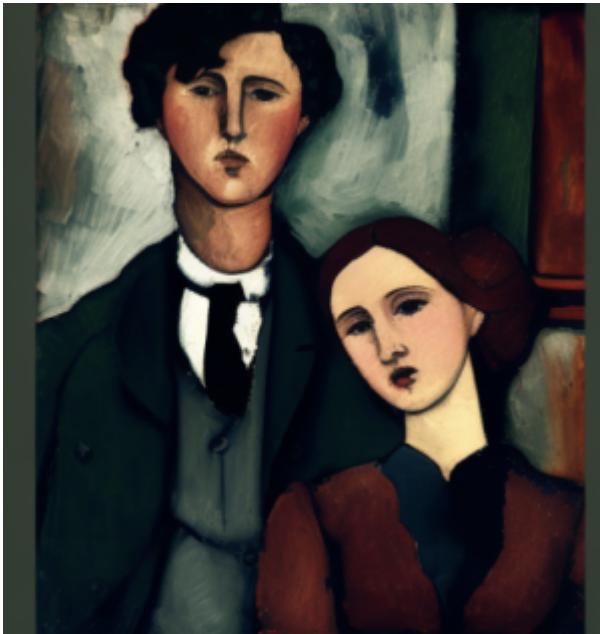
Artist A created a painting, Work A, in the past. Work A became popular and commercially successful. Recently, using an AI program, Artist B created Work B. Artist B entered into the AI program a series of instructions or "prompts" to create a portrait of a couple dressed in formal attire from the 1900s in a way suitable to Artist B. Artist B was aware of Artist A's work. Work B is now on sale.

The two Works are provided below.

### Work A



### Work B



Artist B contends that, even if Artist B copied original expression in Artist A's artwork, Artist B's copying is allowed under what the law calls "fair use." To succeed on this defense, Artist B must prove that Artist B made a fair use of Artist A's artwork.

In determining whether Artist B's use of Artist A's artwork is a fair use, you should consider the following factors:

(1) The purpose and character of Artist B's use of Artist A's work, including whether such use is of a commercial nature or is for nonprofit educational purposes.

You should consider whether Artist B's use of Artist A's work has a different purpose or character than Artist A's work. If Artist A's original work and Artist B's secondary use share the same or highly similar purposes, and the secondary use is commercial, Factor 1 is likely to weigh against fair use, absent some other justification for copying.

(2) The nature of Artist A's copyrighted work.

(3) The amount and substantiality of the portion from Artist A's work that Artist B used in relation to Artist A's work as a whole.

(4) The effect of Artist B's use upon the potential market for or value of Artist A's work.

You should weigh all the factors in making your decision.

In light of the legal rule, is Artist B's use of Artist A's artwork a fair use?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

## **EVF-SS-O**

Please view the picture below, drawn by Artist E.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, painted by Artist F.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### Case 6: Artist E v. Artist F

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork.

Artist E created a drawing, Work E, for a comic book in the past. Work E became popular and commercially successful. Recently, Artist F created a painting, Work F. Artist F was aware of Artist E's work. Work F is now on sale.

The two Works are provided below.

### Work E



### Work F



Under the law, to prove Artist F has infringed the copyright to Artist E's work, Artist E must prove the works are substantially similar to the ordinary, reasonable viewer. This is not the same as “identical.” Artist E does not have to show that each of the individual elements of the works is substantially similar. Artist E must show that there is enough similarity between original elements of Artist E's work and Artist F's work to constitute a substantial amount to the ordinary, reasonable viewer.

Copyright does not protect ideas, stock scenes, or stock characters. Scenes and characters that are too basic and common, such as a hero defeating a villain, are not entitled to copyright protection. However, an author can receive copyright if the author adds original expression developing a basic or common scene or character. The copyright protects the author's original expression.

In light of the legal rule, does Artist F's work infringe Artist E's copyright?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

**EVF-FU-O**

Please view the picture below, drawn by Artist E.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, painted by Artist F.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Case 6: Artist E v. Artist F**

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork based on the fair use defense. Under the law, a fair use is not an infringement of copyright.

Artist E created a drawing, Work E, for a comic book in the past. Work E became popular and commercially successful. Recently, Artist F created a painting, Work F. Artist F was aware of Artist E's work. Work F is now on sale.

The two Works are provided below.

### Work E



### Work F



Artist F contends that, even if Artist F copied original expression in Artist E's artwork, Artist F's copying is allowed under what the law calls "fair use." To succeed on this defense, Artist F must prove that Artist F made a fair use of Artist E's artwork.

In determining whether Artist F's use of Artist E's artwork is a fair use, you should consider the following factors:

(1) The purpose and character of Artist F's use of Artist E's work, including whether such use is of a commercial nature or is for nonprofit educational purposes.

You should consider whether Artist F's use of Artist E's work has a different purpose or character than Artist E's work. If Artist E's original work and Artist F's secondary use share the same or highly similar purposes, and the secondary use is commercial, Factor 1 is likely to weigh against fair use, absent some other justification for copying.

(2) The nature of Artist E's copyrighted work.

(3) The amount and substantiality of the portion from Artist E's work that Artist F used in relation to Artist E's work as a whole.

(4) The effect of Artist F's use upon the potential market for or value of Artist E's work.

You should weigh all the factors in making your decision.

In light of the legal rule, is Artist F's use of Artist E's artwork a fair use?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3

- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

**CVD-SS-X**

Please view the picture below, painted by Artist C.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

1 (Lowest) to 10 (Highest)

1 2 3 4 5 6 7 8 9 10

artistic merit

Please view the picture below, created by Artist D using an AI program.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

1 (Lowest) to 10 (Highest)

1 2 3 4 5 6 7 8 9 10

I like this picture

This picture has artistic merit

*Case 4: Artist C v. Artist D*

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been

asked to determine if one artwork does not infringe the copyright of another artwork.

Artist C created a painting, Work C, in the past. Work C became popular and commercially successful. Recently, using an AI program, Artist D created Work D. Artist D entered into the AI program a series of instructions or "prompts" to create a surreal scene depicting figures and flowers in a way suitable to Artist D. Artist D was aware of Artist C's work. Work D is now on sale.

The two Works are provided below.

### Work C



### Work D



Under the law, to prove Artist D has infringed the copyright to Artist C's work, Artist C must prove the works are substantially similar to the ordinary, reasonable viewer. This is not the same as "identical." Artist C does not have to show that each of the individual elements of the works is substantially similar. Artist C must show that there is enough similarity between original elements of Artist C's work and Artist D's

work to constitute a substantial amount to the ordinary, reasonable viewer.

Copyright does not protect ideas, stock scenes, or stock characters. Scenes and characters that are too basic and common, such as a hero defeating a villain, are not entitled to copyright protection. However, an author can receive copyright if the author adds original expression developing a basic or common scene or character. The copyright protects the author's original expression.

In light of the legal rule, does Artist D's work infringe Artist C's copyright?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

**CVD-SS-O**

Please view the picture below, painted by Artist C.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, painted by Artist D.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

*Case 4: Artist C v. Artist D*

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork.

Artist C created a painting, Work C, in the past. Work C became popular and commercially successful. Recently, Artist D created a painting, Work D. Artist D was aware of Artist C's work. Work D is now on sale.

The two Works are provided below.

### Work C



### Work D



Under the law, to prove Artist D has infringed the copyright to Artist C's work, Artist C must prove the works are substantially similar to the ordinary, reasonable viewer. This is not the same as "identical." Artist C does not have to show that each of the individual elements of the works is substantially similar. Artist C must show that there is enough similarity between original elements of Artist C's work and Artist D's work to constitute a substantial amount to the ordinary, reasonable viewer.

Copyright does not protect ideas, stock scenes, or stock characters. Scenes and characters that are too basic and common, such as a hero defeating a villain, are not entitled to copyright protection. However, an author can receive copyright if the author adds original expression developing a basic or common scene or character. The copyright protects the author's original expression.

In light of the legal rule, does Artist D's work infringe Artist C's copyright?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

### CVD-FU-X

Please view the picture below, painted by Artist C.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, created by Artist D using an AI program.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

#### Case 4: Artist C v. Artist D

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork based on the fair use defense. Under the law, a fair use is not an infringement of copyright.

Artist C created a painting, Work C, in the past. Work C became popular and commercially successful. Recently, using an AI program, Artist D created Work D. Artist D entered into the AI program a series of instructions or "prompts" to create a surreal scene depicting figures and flowers in a way suitable to Artist D. Artist D was aware of Artist C's work. Work D is now on sale.

The two Works are provided below.

#### Work C



#### Work D



Artist D contends that, even if Artist D copied original expression in Artist C's artwork, Artist D's copying is allowed under what the law calls "fair use." To succeed on this defense, Artist D must prove that Artist D made a fair use of Artist C's artwork.

In determining whether Artist D's use of Artist C's artwork is a fair use, you should consider the following factors:

(1) The purpose and character of Artist D's use of Artist C's work, including whether such use is of a commercial nature or is for nonprofit educational purposes.

You should consider whether Artist D's use of Artist C's work has a different purpose or character than Artist C's work. If Artist C's original work and Artist D's secondary use share the same or highly similar purposes, and the secondary use is commercial, Factor 1 is likely to weigh against fair use, absent some other justification for copying.

(2) The nature of Artist C's copyrighted work.

(3) The amount and substantiality of the portion from Artist C's work that Artist D used in relation to Artist C's work as a whole.

(4) The effect of Artist D's use upon the potential market for or value of Artist C's work.

You should weigh all the factors in making your decision.

In light of the legal rule, is Artist D's use of Artist C's artwork a fair use?

- Yes  
 No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)  
 2  
 3  
 4  
 5  
 6  
 7  
 8  
 9  
 10 (Most Confident)

### **CVD-FU-O**

Please view the picture below, painted by Artist C.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, painted by Artist D.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

#### Case 4: Artist C v. Artist D

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork based on the fair use defense. Under the law, a fair use is not an infringement of copyright.

Artist C created a painting, Work C, in the past. Work C became popular and commercially successful. Recently, Artist D created a painting, Work D. Artist D was aware of Artist C's work. Work D is now on sale.

The two Works are provided below.

#### Work C



#### Work D



Artist D contends that, even if Artist D copied original expression in Artist C's artwork, Artist D's copying is allowed under what the law calls "fair use." To succeed on this defense, Artist D must prove that Artist D made a fair use of Artist C's artwork.

In determining whether Artist D's use of Artist C's artwork is a fair use, you should consider the following factors:

(1) The purpose and character of Artist D's use of Artist C's work, including whether such use is of a commercial nature or is for nonprofit educational purposes.

You should consider whether Artist D's use of Artist C's work has a different purpose or character than Artist C's work. If Artist C's original work and Artist D's secondary use share the same or highly similar purposes, and the secondary use is commercial, Factor 1 is likely to weigh against fair use, absent some other justification for copying.

(2) The nature of Artist C's copyrighted work.

(3) The amount and substantiality of the portion from Artist C's work that Artist D used in relation to Artist C's work as a whole.

(4) The effect of Artist D's use upon the potential market for or value of Artist C's work.

You should weigh all the factors in making your decision.

In light of the legal rule, is Artist D's use of Artist C's artwork a fair use?

- Yes  
 No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)  
 2  
 3  
 4  
 5  
 6  
 7  
 8  
 9  
 10 (Most Confident)

### demographic block

What is your gender?

- Male  
 Female  
 Non-binary/Gender Diverse  
 My gender identity is not listed. I identify as   
 Prefer not to state

What is your age?

- 18 to 24  
 25 to 34  
 35 to 44

- 45 to 54
- 55 to 64
- 65 to 74
- 75 or older

What is the highest degree or level of school you have completed? (If you are currently enrolled in school, please indicate the highest degree you have received.)

- Nursery school to 8th grade
- Some high school, no diploma
- High School graduate
- Some college, no degree
- Associate degree
- Bachelor's degree
- Master's degree
- Professional degree / Doctorate degree

Have you heard of ChatGPT or a similar generative AI program?

- Yes
- No

Have you ever used ChatGPT or a similar generative AI program?

- Yes
- No

Have you ever used AI to generate artwork or an image?

- Yes
- No

Are you a lawyer or have you ever attended law school?

- Yes

No

Are you an artist or someone who creates art?

Yes

No

Have you studied art or art history in a course, or received a degree in art or art history?

Yes

No

How often are you on social media per day?

Less than 1 hour

1 hour

2 hours

3 hours

4 hours

5 hours

6 hours

7 hours

8 hours

9 hours

10 hours or more

What social media services do you use? (Please check all that apply)

Facebook

Instagram

Parler

Snapchat

TikTok

Twitter

YouTube OTHER (Please Type any Other Social Media here)  None

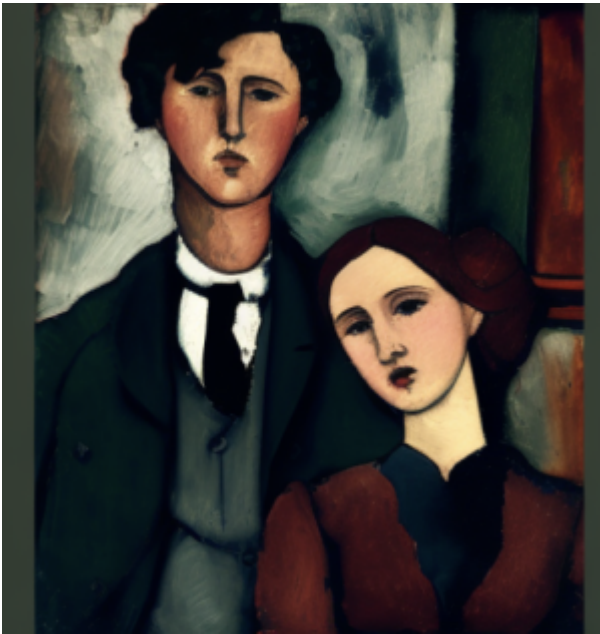
## RecognizeArt

Did you recognize any artwork in this study based on your prior knowledge? If yes, please indicate the artwork you recognized below.

Work A



Work B



Work C



Work D



Work E



Work F



- No, I did not recognize any piece of artwork
- Work A
- Work B
- Work C

- Work D
- Work E
- Work F

If you recognized any artwork in this study based on your prior knowledge, please write your best guess of the name of the Artist below.

Yes, I recognized artwork and my best guess of the name(s) of the artist(s):

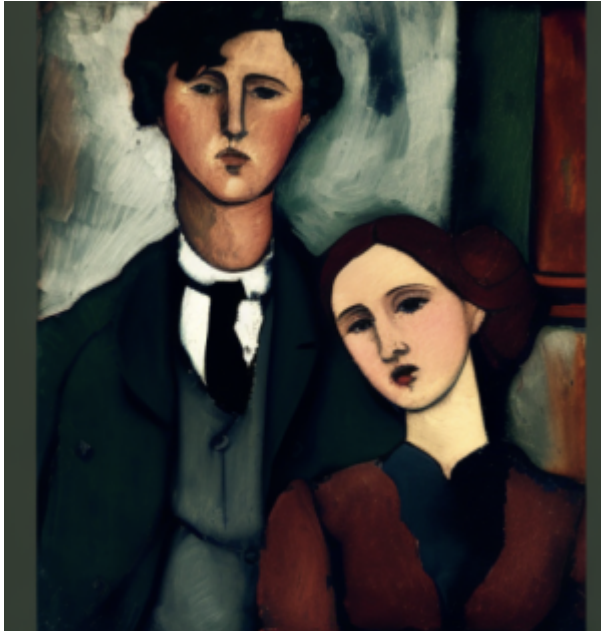
No, I did not recognize artwork

**END**

On this question, our goal is to determine that you have been paying attention. Please select the number 3 below. Do not select any other number.

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

Which of the following was NOT a piece of art that you were asked about in this study?





In the box below, write a short sentence about what you believe this experiment was examining.

## DEBRIEF

The purpose of this study was to analyze the relationship between art appreciation of hand-made and AI-generated works and copyright disputes. We have focused on two jury instructions that are commonly given in cases involving copyright disputes. We want to know how these instructions influence jurors and the outcomes in copyright cases. Your answers will help us understand the legal process and outcomes in artwork copyright dispute cases.

You are all done! Please click the "NEXT" button to receive your survey completion link, which is necessary to receive compensation for your work.

NEXT

## AVB-FU-O

Please view the picture below, painted by Artist A.



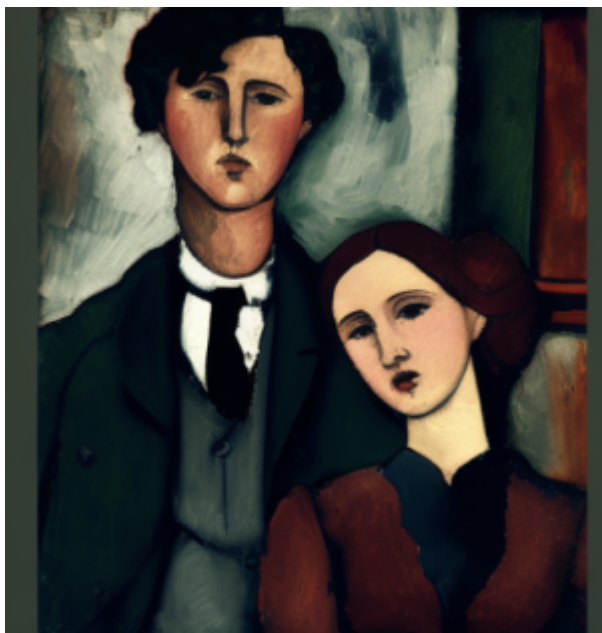
On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, painted by Artist B.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

*Case 2: Artist A v. Artist B*

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork based on the fair use defense. Under the law, a fair use is not an infringement of copyright.

Artist A created a painting, Work A, in the past. Work A became popular and commercially successful. Recently, Artist B created a painting, Work B. Artist B was

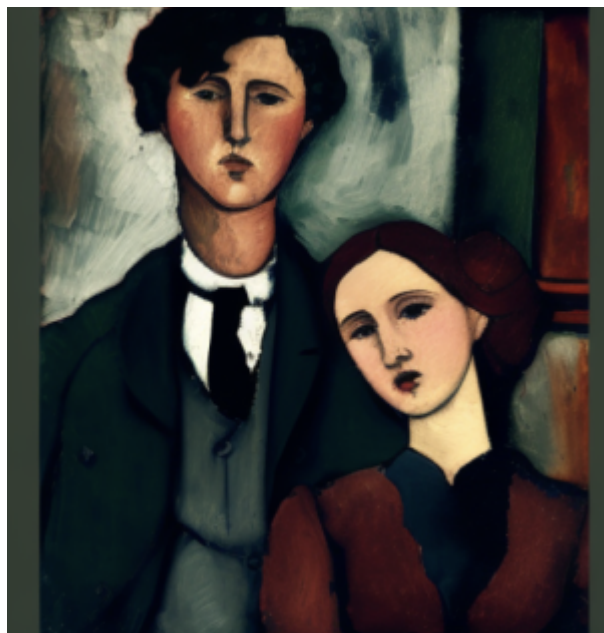
aware of Artist A's work. Work B is now on sale.

The two Works are provided below.

### Work A



### Work B



Artist B contends that, even if Artist B copied original expression in Artist A's artwork, Artist B's copying is allowed under what the law calls "fair use." To succeed on this defense, Artist B must prove that Artist B made a fair use of Artist A's artwork.

In determining whether Artist B's use of Artist A's artwork is a fair use, you should consider the following factors:

(1) The purpose and character of Artist B's use of Artist A's work, including whether such use is of a commercial nature or is for nonprofit educational purposes.

You should consider whether Artist B's use of Artist A's work has a different purpose or character than Artist A's work. If Artist A's original work and Artist B's secondary use share the same or highly similar purposes, and the secondary use is commercial, Factor 1 is likely to weigh against fair use, absent some other justification for copying.

(2) The nature of Artist A's copyrighted work.

(3) The amount and substantiality of the portion from Artist A's work that Artist B used in relation to Artist A's work as a whole.

(4) The effect of Artist B's use upon the potential market for or value of Artist A's work.

You should weigh all the factors in making your decision.

In light of the legal rule, is Artist B's use of Artist A's artwork a fair use?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7

- 8
- 9
- 10 (Most Confident)

### EVF-SS-X

Please view the picture below, drawn by Artist E.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, a painting created by Artist F using an AI program.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

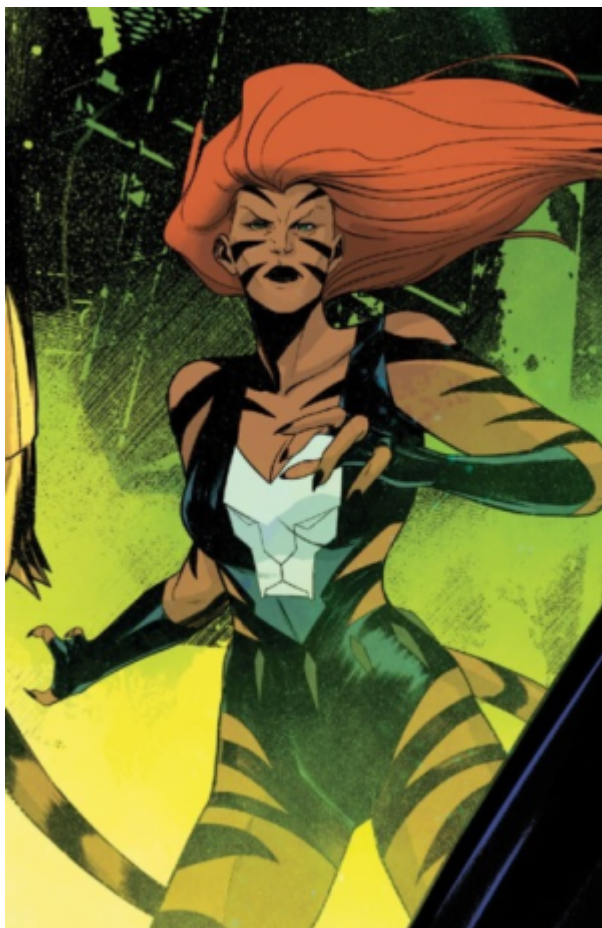
### Case 6: Artist E v. Artist F

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork.

Artist E created a drawing, Work E, for a comic book in the past. Work E became popular and commercially successful. Recently, using an AI program, Artist F created Work F. Artist F entered into the AI program a series of instructions or "prompts" to create a painting of a comic book superhero in a way suitable to Artist F. Artist F was aware of Artist E's work. Work F is now on sale.

The two Works are provided below.

#### **Work E**

**Work F**

Under the law, to prove Artist F has infringed the copyright to Artist E's work, Artist E must prove the works are substantially similar to the ordinary, reasonable viewer. This is not the same as "identical." Artist E does not have to show that each of the individual elements of the works is substantially similar. Artist E must show that there is enough similarity between original elements of Artist E's work and Artist F's work

to constitute a substantial amount to the ordinary, reasonable viewer.

Copyright does not protect ideas, stock scenes, or stock characters. Scenes and characters that are too basic and common, such as a hero defeating a villain, are not entitled to copyright protection. However, an author can receive copyright if the author adds original expression developing a basic or common scene or character. The copyright protects the author's original expression.

In light of the legal rule, does Artist F's work infringe Artist E's copyright?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

## **EVF-FU-X**

Please view the picture below, drawn by Artist E.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, a painting created by Artist F using an AI program.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Case 6: Artist E v. Artist F**

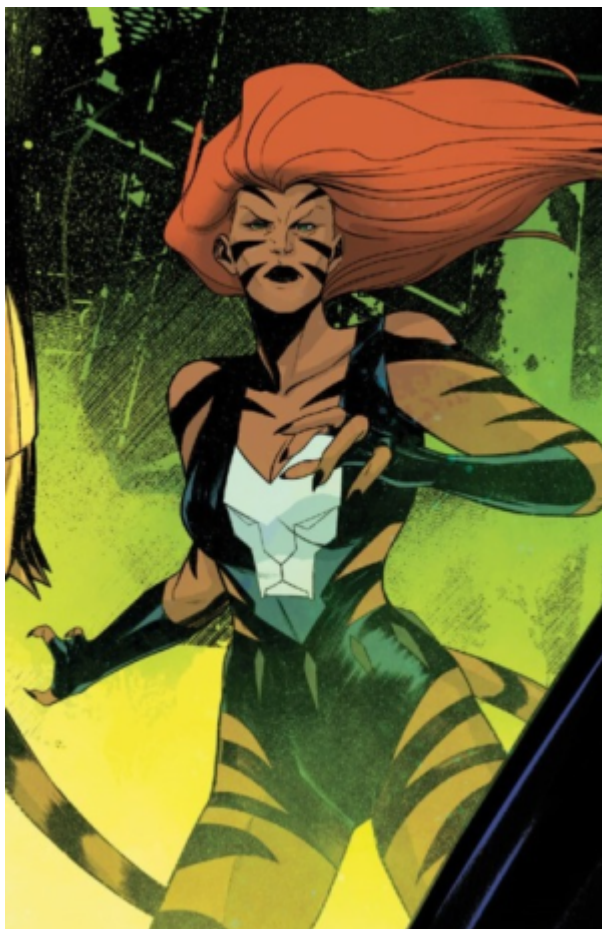
There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork

based on the fair use defense. Under the law, a fair use is not an infringement of copyright.

Artist E created a drawing, Work E, for a comic book in the past. Work E became popular and commercially successful. Recently, using an AI program, Artist F created Work F. Artist F entered into the AI program a series of instructions or "prompts" to create a painting of a comic book superhero in a way suitable to Artist F. Artist F was aware of Artist E's work. Work F is now on sale.

The two Works are provided below.

### Work E



### Work F



Artist F contends that, even if Artist F copied original expression in Artist E's artwork, Artist F's copying is allowed under what the law calls "fair use." To succeed on this defense, Artist F must prove that Artist F made a fair use of Artist E's artwork.

In determining whether Artist F's use of Artist E's artwork is a fair use, you should consider the following factors:

(1) The purpose and character of Artist F's use of Artist E's work, including whether such use is of a commercial nature or is for nonprofit educational purposes.

You should consider whether Artist F's use of Artist E's work has a different purpose or character than Artist E's work. If Artist E's original work and Artist F's secondary use share the same or highly similar purposes, and the secondary use is commercial, Factor 1 is likely to weigh against fair use, absent some other justification for copying.

(2) The nature of Artist E's copyrighted work.

(3) The amount and substantiality of the portion from Artist E's work that Artist F used in relation to Artist E's work as a whole.

(4) The effect of Artist F's use upon the potential market for or value of Artist E's work.

You should weigh all the factors in making your decision.

In light of the legal rule, is Artist F's use of Artist E's artwork a fair use?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

### **AVB-SS-X**

Please view the picture below, painted by Artist A.



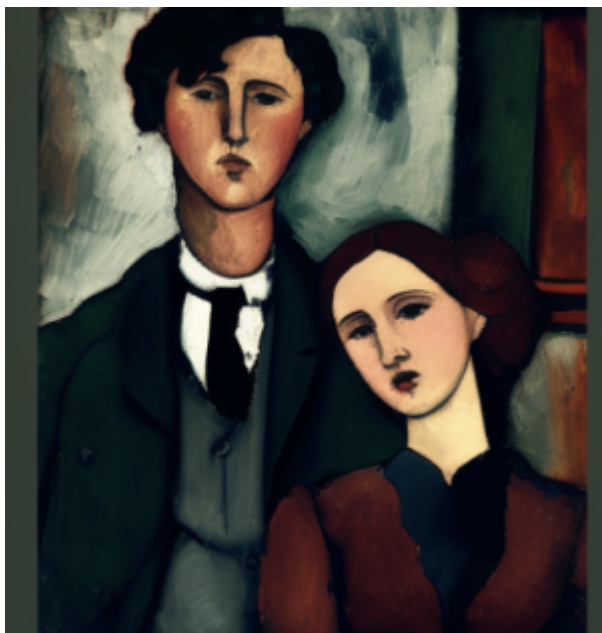
On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, created by Artist B using an AI program.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

*Case 1: Artist A v. Artist B*

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork.

Artist A created a painting, Work A, in the past. Work A became popular and commercially successful. Recently, using an AI program, Artist B created Work B. Artist B entered into the AI program a series of instructions or "prompts" to create a

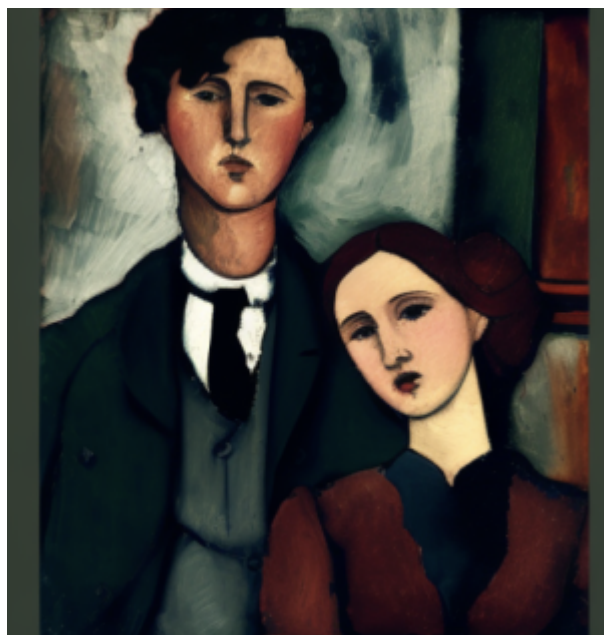
portrait of a couple dressed in formal attire from the 1900s in a way suitable to Artist B. Artist B was aware of Artist A's work. Work B is now on sale.

The two Works are provided below.

### Work A



### Work B



Under the law, to prove Artist B has infringed the copyright to Artist A's work, Artist A must prove the works are substantially similar to the ordinary, reasonable viewer.

This is not the same as “identical.” Artist A does not have to show that each of the individual elements of the works is substantially similar. Artist A must show that there is enough similarity between original elements of Artist A’s work and Artist B’s work to constitute a substantial amount to the ordinary, reasonable viewer.

Copyright does not protect ideas, stock scenes, or stock characters. Scenes and characters that are too basic and common, such as a hero defeating a villain, are not entitled to copyright protection. However, an author can receive copyright if the author adds original expression developing a basic or common scene or character. The copyright protects the author’s original expression.

In light of the legal rule, does Artist B’s work infringe Artist A's copyright?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

## **AVB-SS-O**

Please view the picture below, painted by Artist A.



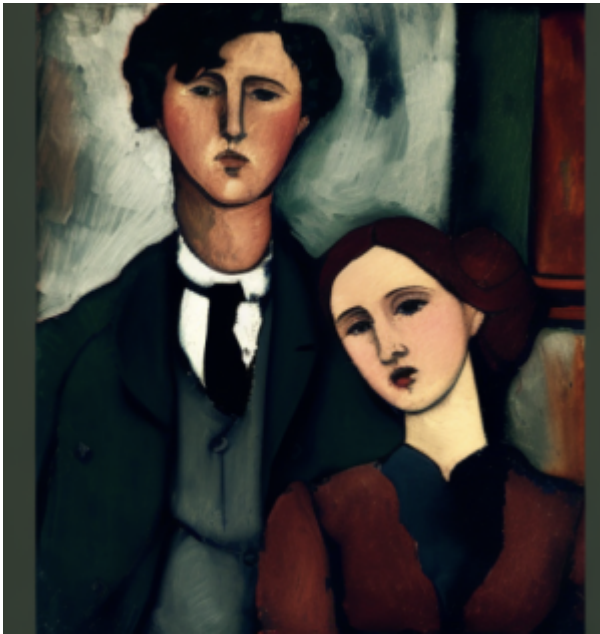
On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please view the picture below, painted by Artist B.



On a scale from 1-10 (with 1 being lowest and 10 being highest):

How much do you like this picture?

How much artistic merit do you think this picture has?

	1 (Lowest) to 10 (Highest)									
	1	2	3	4	5	6	7	8	9	10
I like this picture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
This picture has artistic merit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### Case 1: Artist A v. Artist B

There is a legal dispute involving two works of art. Imagine that you are a juror. Copyright law protects works of authorship, including a work of art. You have been asked to determine if one artwork does not infringe the copyright of another artwork.

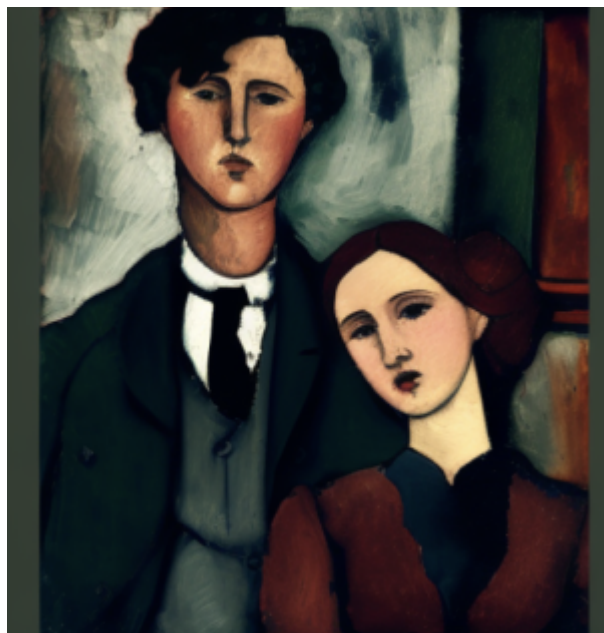
Artist A created a painting, Work A, in the past. Work A became popular and commercially successful. Recently, Artist B created a painting, Work B. Artist B was aware of Artist A's work. Work B is now on sale.

The two Works are provided below.

### Work A



### Work B



Under the law, to prove Artist B has infringed the copyright to Artist A's work, Artist A must prove the works are substantially similar to the ordinary, reasonable viewer. This is not the same as "identical." Artist A does not have to show that each of the individual elements of the works is substantially similar. Artist A must show that there

is enough similarity between original elements of Artist A's work and Artist B's work to constitute a substantial amount to the ordinary, reasonable viewer.

Copyright does not protect ideas, stock scenes, or stock characters. Scenes and characters that are too basic and common, such as a hero defeating a villain, are not entitled to copyright protection. However, an author can receive copyright if the author adds original expression developing a basic or common scene or character. The copyright protects the author's original expression.

In light of the legal rule, does Artist B's work infringe Artist A's copyright?

- Yes
- No

How Confident are you of this decision, on a scale from 1-10, with 1 being the least confident and 10 being the most confident?

- 1 (Least Confident)
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 (Most Confident)

### Completion Code

Please follow this completion code link for this Prolific task:  
<https://app.prolific.com/submissions/complete?cc=C4LMZ74E>