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Brendan T. Kehoe, Esq.
In Support Of The
Associated Press' Motion
For Summary Judgment



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BLOWING UP the BRAND

CRITICAL PERSPECTIVES ON PROMOTIONAL CULTURE

EDITED BY MELISSA ARONCZYK AND DEVON POWERS



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The Politics of Commerce

Shepard Fairey and the New Cultural Entrepreneurship

Sarah Banet-Weiser & Marita Sturken

In February 2009, cult graphic artist and cultural entrepreneur Shepard Fairey was arrested in Boston and accused of vandalism for illegally putting up posters on the street. This was not an exceptional situation, since Fairey had been arrested, by his own count, fourteen times before. However, the arrest happened to coincide with a major retrospective of Fairey's work at the Institute of Contemporary Art in Boston, thus garnering mainstream press attention. A month later, Fairey appeared in court in Boston with his lawyer to fight what the *New York Times* called a "cascade" of vandalism charges, prompting yet again a debate (one deliberately instigated by Fairey over the years) about the difference between street art, graffiti, and branding. "He's raising important issues about consent and who decides what we see in public spaces," Jill Medvedow, director of the Institute of Contemporary Art, told the *Times*. "It gives Boston an opportunity not just to engage but to help lead that debate" (Goodnough 2009). Fairey himself suggested he was being punished for advocating that public space "should be filled with more than just commercial advertising."

Yet Shepard Fairey is hardly a typical street-graffiti artist working against the corporate establishment of advertising and its colonization of the street. He is himself a brand. Emerging from the skateboarding scene in the mid-1990s, he achieved early cult status with his "Andre the Giant Has a Posse" sticker campaign, featuring images that depicted wrestler Andre the Giant underscored with the capitalized word "obey" as a way to both mock and critique the ubiquity of advertising. Through his Studio Number One, he produces not only political posters such as the now celebrated HOPE, PROGRESS, and CHANGE Barack Obama posters but also a line of hip

skater-surfer inspired clothing under the label Obey Giant (sold with the slogan “manufacturing dissent since 1989”) and advertising campaigns such as a recent Saks Fifth Avenue campaign that deploys Constructionist-style graphics to entreat shoppers to “Want It!” His 2009 endeavors include “re-branding” George Orwell’s *Animal Farm* with a new illustrated cover and a poster art campaign for clean energy.

Fairey is emblematic of a new kind of cultural producer, at home with entrepreneurship and progressive cultural politics simultaneously. His marketing strategies for his clothing line, for instance, are a direct critique of the persuasive power of advertising while they simultaneously do the work of selling clothes. In his ad campaign for Saks, Fairey deliberately uses the codes of anticonsumerist socialist art. This play with art and commerce, and recoding of the language of capitalist critique into campaigns that are playfully yet directly about marketing consumerism, is a key characteristic of the new cultural entrepreneur. Fairey’s creation of a recognizable “nonbrand” brand, one that resonates most prominently with a hip, (primarily) urban youth culture, exemplifies many aspects of contemporary brand culture, in which individuals create, experience, resist, and challenge identities through and within the visual and political culture of branding. Fairey is successful at negotiating these many roles—from the artist who is credentialed by his arrest record as retaining the authenticity of the “street” to the manager of a clothing brand who runs a factory in Los Angeles with a large number of employees, from the artist of weekly produced, quickly run political posters to an artist whose work is sold in limited editions and featured in museum retrospectives. Fairey’s Obama political poster (at the time of this writing entangled in a copyright battle) was acquired by the Smithsonian; his style mixes political poses with brands in an unapologetic way, accompanied by a discourse that roams from Heidegger to code words like “flexibility.” For instance, in his widely circulated Manifesto about the OBEY campaign, Fairey describes his OBEY sticker campaign as “an experiment in Phenomenology,” referencing Heidegger’s notion that phenomenology is “the process of letting things manifest themselves.” He states, “The first aim of phenomenology is to reawaken a sense of wonder about one’s environment. The OBEY sticker attempts to stimulate curiosity and bring people to question both the sticker and their relationship with their surroundings” (Fairey 1990). He aims, often quite successfully, to straddle both this artistic aim of reawakening a sense of wonder with the producers’ aim of selling the dissemination of ideas and slogans through commodities.

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We see Shepard Fairey as an icon of a new form of cultural entrepreneurship whose profile reveals the current relationship of brand culture, postmodern indie remix culture, and neoliberalism. We are particularly interested in the means by which neoliberal capitalism and its manifestation with the discourse of creative economies legitimates the role of the cultural entrepreneur within brand culture, and the implications this has, both positive and negative, on artistic production and on consumer and artistic relationships to brand culture. Cultural entrepreneurship has taken on new dimensions in the past two decades, with an increasing number of artists and musicians moving seamlessly between making art, creating brands, running small businesses, and selling their cultural capital, all while working to retain their status as radical (sometimes street) artists. In this context, alternative bands liberally sell their music to advertising agencies, artists are designing ad campaigns for mainstream brands, and the typical ad man is expected to have his own indie band on the side.

Fairey and others like him epitomize what has been called by Richard Florida and others the "creative economy." The creative economy is celebrated by public planner Elizabeth Currid as "a fluid economy that allows creative industries to collaborate with one another, review each other's products, and offer jobs that cross-fertilize and share skill sets, whether it is an artist who becomes creative director for a fashion house or a graffiti artist who works for an advertising agency" (Currid 2007: 7). This flow between art that continues to define itself on the margins and the global capital networks of cultural entrepreneurs tells us something about how, and in what ways, brand culture has a particular kind of value in a neoliberal context. The framework of cultural entrepreneurship can help us to understand the construction of cultural competencies (with art and brands playing key roles) in neoliberal global capitalism. Within the changing relationship of culture and commerce, consumer participation is not simply (or even most importantly) indicated by purchases made but is rather signaled as brand affiliation, a connection which links brands to lifestyles, to politics, and even to social activism. Brand culture not only shapes consumer habits but also all forms of political, social, and civic participation, so that in the contemporary era, brands have become, in Adam Arvidsson's words, "immaterial, informational objects...they are part of the propertied ambience of media culture in which life unfolds" (Arvidsson 2006: 13). The concept of brands as ambience, and the idea that branding is the primary context for everyday living, raises the issue of how brand culture can serve as a force for progres-

sive social change (or not). If brands are part of culture in which "life unfolds," what then does this "life" look like? How is it manifest?

The "Rise" of the Creative Economy

The definition of art within creative and romantic terms has depended historically on the ideological and aesthetic separation of the cultural realms of artistic creativity and commerce. Traditionally, art was defined as an avenue toward enlightenment, transcendence, and the sublime, with commerce set up as its opposite, defined by instrumental goals, those of rational governance and profit. This ideological separation has never accurately defined the relationship of art and commerce since its origins; artists have always been involved in collaboration with those industries and organizations that finance, distribute, and sell their work, and artistic creativity has been imbricated throughout its history in commercial interests, from simpler relationships such as the artist as apprentice and that of artists and art dealers to the much more complex market for books, music, television, and film (Caves 2000). Yet, even the radical critiques of the modernist avant-garde retained an idealistic and ideological distinction between art and commerce and art and branding. At the same time, the domain of marketing and advertising has always borrowed liberally from the domain of art, with early ad agencies hiring illustrators to make ads, using paintings in ads, and over the years working to appropriate the cultural capital of art into the world of branding. The signature of art has been a primary value that brand managers have strived for in the post-1960s era of advertising styles. In the contemporary era of style management, design and aesthetics have achieved a much higher focus in brand culture.

It goes without saying that in the contemporary moment, the traditional separation between art and commerce has not only been diminished but has lost its value. More importantly, one could argue that the strategies of brand culture have been easily incorporated into art in its postmodern phase, and that brand managers have successfully created the category of brand/ad as art. While the merging of brand culture and art has produced an increased ease with discourses of branding within the domain of art (as well as the constant reinvention of art forms at the margins), it has simultaneously dislodged, if not enabled, art's hold on the concept of creativity.

In the past twenty years, the idea of a creative economy has gained increasing visibility (and state validation). As both Nicholas Garnham and

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David Hesmondhalgh have pointed out, in the United Kingdom there has been a move within government-funded institutions—marked in both vocabulary and directed resources—from the “cultural industries” to the “creative industries” (Garnham 2005; Hesmondhalgh 2007). In North America, Richard Florida’s 2002 book *The Rise of the Creative Class* became a bestseller and a platform from which cities around the U.S. and Canada began new practices of urban planning that emphasized a “creative workforce,” including an extensive process of gentrification and a celebration of those who productively channel their “innate creativity” as a line of work (Florida 2002). As many critics of this concept have noted, one result of the renewed focus on the creative class and industries has been the off-loading of state responsibilities to the individual, so that the state plays a smaller and smaller role in funding artistic and creative social services. This means that the state abdicates its role supporting wage-earning workers to focus instead on those “innately creative” individuals who effectively become “entrepreneurs” (and temporary laborers) in an economy that privileges individual self-employed and/or freelance labor.

In the creative economy, charting and measuring creativity becomes paramount. “Creative consultants” and brand managers are hired by city planners to produce a more creative city, which ostensibly then increases the value of a city in terms of actual revenue, tourist dollars, and reputation (Florida and others have been hired to consult with city planners to rebrand cities such as Des Moines and Toronto as newly energized and creative) (Peck 2005). Creativity is quantified and measured on scales such as Florida’s “gay index” which sees the demographic of gays and lesbians as evidence of an open city, tolerant of lifestyles and amenable to creativity as an economic force. In the spring of 2009, Elizabeth Currid and Sarah Williams produced a study, “The Geography of Buzz: Art, Culture, and the Social Milieu in Los Angeles and New York,” that “locates hot spots based on the frequency and draw of cultural happenings: film and television screenings, concerts, fashion shows, gallery and theater openings” (Ryzik 2009). The study used a “buzz-o-meter” to be able to “quantify and understand, visually and spatially, how this creative cultural scene really worked” (Ryzik 2009; Currid and Williams 2010). Creative autonomy, long considered historically to be in opposition to (and thus threatened by) market forces, is, within this economy, effectively organized and managed by market forces. This is especially salient in a creative economy that valorizes those works that are “buzz-worthy” due to media presence and attention. As Richard

Caves points out, "No wonder that a 'buzz'—a critical mass of favorable, or at least involved, discussion—is treasured among those who promote the sale of creative goods. It is also a check on them, because it mobilizes many involved persons' judgments on the worth of creative works that are the subject of serious promotional investments" (Caves 2000: 181). The value of "buzz" is certainly not new to the contemporary era, but the shifting labor and organizational practices around creativity that characterize this era mean that "buzz" is no longer mundane gossip or overhyped opinions but a key factor in the exchange value and distribution of creative products.

For Florida, creativity means a whole range of activities and identities that intersect and relate to create a highly energized, productive economy: those who work in science and engineering are unproblematically positioned in Florida's work alongside artists, musicians, and other "culturally creative" people. Many scholars and cultural critics have critiqued Florida's concepts of the creative class and creative economy, arguing that it is simply a justification for bourgeois gentrification, rendering invisible the labor of immigrants and the working class within the fabric of contemporary cities (Peck 2005). Florida's bold proclamation that the "creative class" is rising is not theorized in terms of material or cultural inequalities, shifting labor relations or practices, or an increasingly immigrant service labor force.

In this context, creativity is essentially a brand; it is reified and transformed into an object that is marketed, distributed, and exchanged within the contemporary economy, and takes on a particular "value" as a lifestyle, policy, or set of politics. When creativity is itself organized as a kind of brand, it is effectively reconfigured through commodity fetishism so that its relationship to labor is effaced, and it is allied with broader social concepts and desires. In marketing expert Douglas Holt's account of "iconic brands," he insists that the most successful brands are those that connect with a particular social and cultural myth rather than attempt to connect with an individual consumer's desires: the successful, iconic brand, he argues, "is a historical entity whose desirability comes from myths that address the most important social tensions of a nation" (Holt 2004: 38). The concept of creativity as a brand addresses these kinds of tensions within contemporary culture. While "creativity" historically has represented something intangible, a unique property of particular individuals that cannot be exchanged on the marketplace like a can of soda or a pair of jeans, in the current political and cultural economy brands are no longer necessarily attached to specific commodities. Shepard Fairey as a creative brand, one that signifies street culture,

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savvy word play, and a pastiche of graphic image styles that signal dissent, packages a particular kind of creativity into market items for both art-world consumers and youthful skateboarders.

Creativity thus becomes something reconfigured and packaged as a way to accumulate profit. In the plans for creative cities, neighborhoods are designed around indexes of creativity, so that art galleries, coffee houses, theaters, and well-kept walkways indicate not only a safe neighborhood, but one where creativity attracts a particular class of people (namely, those who have the cultural and economic capital to visit art galleries and museums, spend time at coffee houses, etc.). It is worth noting that, in the context of the recent financial crisis, the really new creative city might be Detroit, where artists have (like generations of artists in other cities before them) begun to move into neighborhoods with foreclosed homes—cheap real estate being a key incentive to low-paid artistic production. This is one of the ironies of the Richard Florida model: cities which are successful in fostering creative bourgeois economies tend to be too expensive for all but the most successful artists to live and thus quickly become environments where creativity is signaled by branding and marketing, but actual artistic production is in short supply.

Creative Laborers, Entrepreneurs, and Neoliberal Capital

Brand culture and creative economies are both supported and maintained by the ethos of neoliberal capital. Indeed, Florida’s notion of the creative class is an outgrowth of neoliberal capitalism and the discourse of the free-agent economy. In many ways, the idea of the “creative class” rejuvenates—and rebrands—the historical notion of a meritocracy, where those who are the most “creative” will find a place in this economy. The “merit” element of this rebranded meritocracy no longer relies so intimately on the familiar Horatio Alger-inspired narrative of hard work and unique intelligence; the contemporary meritocracy is instead predicated on how well one can “channel” one’s innate creativity (with the assumption that all people are “creative”). However, the same constraints that shaped traditional notions of meritocracy, in which identity characteristics such as class, race, and gender were rendered invisible as determining factors in achieving “success,” continue to shape the creative meritocracy. In her work on the contemporary art and fashion industries in London, Angela McRobbie argues that the transition from the cultural industries to the creative industries has meant,

among other things, a "miserable hierarchy, which comprises of corporate winners at the top, artist-teachers in the middle, and all the others at the bottom, putting together a patchwork of careers." Laborers in the creative economy rely only or primarily on their individual talents; absent of any state or federal support for "creativity," with creative labor romanticized as "cool" and "artistic," creative laborers are designated as "agents of the neoliberal order" (McRobbie 2004: 194).

Neoliberalism, according to David Harvey, is a reorganization not only of the state's role in the economy but also of other capitalist practices, such as the emergence of global markets for goods and services, the global networks of production that sustain these markets, and the various ways in which new technologies have been applied to every stage of the economic process, including manufacturing, financing, distribution, and exchange. This has resulted in not only the decentralization of production, but also in the reorganization of labor and markets, including changing labor patterns (such as the normalization of the itinerant laborer, flexible production, and a multiskilled labor force) (Harvey 2007; Schiller 2007). Within this economic context, postindustrial capitalist practices develop systems of production and distribution that respond to smaller niche groups of consumers in order to maximize profit and which are framed within a discourse of "individualism," "creativity," and "freedoms." The fact that these ideals continue to be shaped and defined by advertising and branding strategies is not considered problematic; rather, politics and consumerism, advertising and art, individualism and cultural entrepreneurship become the contours of culture. Shepard Fairey's artistic endeavors are a kind of logical outgrowth from this context; his skill at placing cultural critique, branding, and art dynamically side by side is not conceived of nor understood as an act of "culture jamming" or anticapitalist activism. Rather, his brand of rebellious creativity is precisely the kind nurtured by the restructuring of markets and culture within neoliberalism.

Thus, neoliberalism has required a re-imagining of not just economic transactions and resources but also of those practices and institutions that had traditionally not been considered in economic terms, such as social and individual relations, emotion, social action, and creativity. It is not simply that neoliberalism has "taken over" these realms of life that hitherto had been understood in noncapitalist terms or in noncapitalist spaces, but that society and culture are reorganized under neoliberalism, so that "the social good will be maximized by maximizing the reach and frequency of market

transactions, and it seeks to bring all human action into the domain of the market" (Harvey 2007: 3). This, of course, includes creativity—evidenced by the "outsourcing" of Florida's and other consultants' and managers' labor in rebranding cities and their denizens as creative.

If creativity is a resource and a commodity within neoliberal creative economies, who then is the creative laborer of neoliberalism? The neoliberal creative economy, with its "flexible" workforce and increasingly itinerant laborers, obfuscates divisions of labor—especially in terms of those who remain in low-paid service jobs. Celebratory rhetoric about the "new" consumer who is also a creative producer (rhetoric that comes not only from advertising and marketing but also from intellectuals who see new possibilities in a changing technoscape) needs to be interrogated: what, exactly, is the consumer producing? As Jamie Peck argues,

Both the script and the nascent practices of urban creativity are peculiarly well suited to entrepreneurialized and neoliberalized urban landscapes. They provide a means to intensify and publicly subsidize urban consumption systems for a circulating class of gentrifiers, whose lack of commitment to place and whose weak community ties are perversely celebrated... this amounts to a process of public validation for favored forms of consumption and for a privileged class of consumers (Peck 2005: 764).

It is the case, of course, that the creative *laborer* seems to be missing from the "creative class," except as a glorified, highly stylized "entrepreneur" like Shepard Fairey. Indeed, the "laborer," historically defined as someone who works for wages, or as an unskilled person who does work for skilled workers in a particular trade, is dependent on an organized system of labor, revolving around state-defined wages, trade unions, and so on. The entrepreneur, in contrast, is understood as an ambitious individual, dependent on no one but him/herself, a person who "owns" his or her own labor and is thus accountable for not only profit but risks accumulated by this labor. Fairey, not only through his creative artistic productions but also in his position as someone who takes on the risks of "bucking the system"—or at least the system's policies on the use of public space—occupies the subject position of the creative laborer. His multiple arrests, his play with politics and art, and his audacious, independent, "street" attitude read as a well-crafted script for the cultural entrepreneur. The entrepreneur is at the center of the creative economy, indicating, as Peck argues, that only a particular, privileged class of consumers/producers has a place within the creative economy. This creative entrepreneur is celebrated and romanticized because of the kind of work ostensibly produced: no gritty, industrial products that

workers care nothing about (but which are, of course, still necessary for all capitalist industries), but rather artistic and innovative expressions of inner creativity, products which workers care intensely about, with passion driving the production process rather than a mind-numbing need for minimum wage.

Andrew Ross sees this creative class as the “precariat,” comprised of workers whose precarious and itinerant labor is romanticized and needs to be understood within the context of the market and compensated labor, rather than mystified as outside the market (and thus denied the rights within it) (Ross 2009). As McRobbie notes about the transition from the “cultural industries” to the “creative industries,” “creativity” is mobilized as a particular kind of incentive that works to lessen government’s role in social and cultural services. That is, self-employment is romanticized as a lucrative career option: “Set up your own business. Be free to do your own thing. Live and work like an artist... We can now extend this to suggest that artists’ ways of earning a living become a model for livelihoods, as well as lifestyle. This is the logic of ‘everyone is creative’” (McRobbie 2004: 189).

The brand culture that sustains the creative class and produces creativity as a brand thus has as its signature a retooled producer/consumer relationship. Within this relationship, consumers become producers in a context that is given both ideological and material support through “new” technological formats and market forces. The creative class is comprised not only of professionals who are paid for their creative labor but also of “creative amateurs,” encouraged to be “empowered” by the flexibility and openness of new technological formats and expanded markets. Capitalist practices have been retooled in efforts to reach these new creative amateurs, involving shifted marketing strategies of engagement, authenticity, and creativity. This retooling has led to, among other things, an intensified practice of “stealth advertising,” guerilla marketing tactics (including practices like street art), and a focus on user-generated content, where consumers participate in the development of a brand through online competitions, creating videos and advertising for television and other media on personal web pages on social networking sites. Thus, YouTube culture allows anyone with access to the web to disseminate their “amateur” videos to potentially wide audiences and thousands spend countless (unpaid) hours doing so; do-it-yourself (DIY) production has created networks of crafts and other workers who sell their handmade wares through the web, and consumers can even insert their own picture into Fairey’s HOPE poster on the Obamicon.me web site, to create

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their own personal poster and brand (and, not incidentally, to personalize an iconic image in an era in which the personalized commodity is a key marketing device).

Garnham argues that we need to interrogate the policy decisions that mobilized this shift: the shift from state to market in the U.K. is “a reinforcement of ‘economic’ and ‘managerial’ language and patterns of thought within cultural and media policy” (Garnham 2005: 16). Garnham’s point, along with Ross’s, is that it is not so much that “creativity” is lauded and rewarded in new ways in the contemporary political economy but rather that the economic practices that have characterized more traditional forms of labor, such as the denial of labor rights and managerial policies, have shifted to incorporate an expanded realm of creative labor. Yet, the ideological dimensions of creativity—as a passionate pursuit of innovation, as an innate individual characteristic, or as a skill that is somehow outside the field of commerce—continue to define the process of creative labor, resulting in a relentlessly individualist kind of work, absent of any kind of state governance, such as workplace protection, job security, healthcare, and so on. A familiar mystique thus surrounds the creative laborer, even as neoliberal infrastructures precisely provide the context for the creation and nurturing of this mystique. Peck critiques: “As Florida counsels: ‘We cannot know in advance who the next Andy Warhol, Billie Holiday, Paul Allen, or Jimi Hendrix will be, or where he or she will come from’; yet it would appear to be a racing certainty that these as-yet unborn supercreatives will want to live in Austin, TX, or somewhere very much like it. And they will likely ride into town by mountain bike” (Peck 2005: 762). One could easily add Shepard Fairey to Florida’s list of creatives as an artist whose individualism and promiscuity within cultural realms add to a broader romantic construction of the creative entrepreneur.

Most creative laborers do not uncritically embrace the intersections and collapses between creativity and commerce. Rather, as Hesmondhalgh argues, many creative workers emphasize an attitude of “ambivalence” toward creative work; the historical opposition between creativity and commerce is maintained, but creative labor is how creative workers make a living, so there must be compromises. As Hesmondhalgh shows, there is a great deal of anxiety and insecurity about pay in the creative economy—the romantic construction of “living on the edge” doesn’t go too far in paying bills, particularly in the midst of an economic downturn (Hesmondhalgh 2007). The ostensible autonomy of creative labor—that one can, in Florida’s concept,

channel innate human creativity to make a living doing what one loves and be intellectually fulfilled—is seen here as a kind of control mechanism, in which the overly romanticized notion of “creative autonomy” and the cultural entrepreneur obfuscates the actual material realities of neoliberal capitalism.

Shepard Fairey—and his success as an artist—can be understood within this economy, as the practices and logics that comprise current notions of “creativity” mobilize his identity as a cultural entrepreneur. Fairey epitomizes this intersection of the marketing-inspired “creative class,” and the creative laborer—a street artist who has successfully branded himself, sells his brand as commodities, and regularly does commercial ad campaigns while using his brand for various political causes such as environmentalism and human rights. These different components of Fairey’s creative labor do not stand in contrast or opposition to each other—some political, others commercial—but rather form complementary elements of the overall “brand” of Shepard Fairey. As he has stated, “I think to have these very impractical delineations between art, design, what’s keeping it real, and what’s commercial, is not very psychologically healthy for most artists and designers...it’s just a reality that rather than being apologetic about it, we’ve put together a group of people who actually thrive on that overlap” (Beer 2008).

Fairey’s success is evidence of the ways that cultural capital trickles upward in the neoliberal creative economy, in which the cultural capital of the street (and being arrested on the street is defined as a badge of marginal status that has market value) is invaluable in the world of mainstream branding. Yet Fairey’s negotiation of these potential contradictions demonstrates a discourse that is decidedly different from the tortured defenses that artists once used to claim they weren’t selling out. He subtitles his massive coffee-table book “Supply and Demand,” he remakes dollar bills, and he talks constantly of flexibility, a key buzz word of the neoliberal creative economy and its redefinition of work. Indeed, his continued work in support of Barack Obama demonstrates how he negotiates these potential contradictions: the August 20, 2009, cover of *Rolling Stone* magazine features a new Shepard Fairey portrait of Obama, a more sober and ambivalent depiction than his HOPE posters. Using the same red, white, and blue color palette as the HOPE poster, Obama is shown on the *Rolling Stone* cover looking stern and determined, surrounded by what appears to be a halo of stars and the question: “Will he take bold action or compromise too easily?” Fairey claims

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his inspiration for the illustration was in part Gilbert Stuart's portrait of George Washington, which became the basis for the engraving on the dollar bill, situating Obama among other significant U.S. presidents (as well as the connection with presidents and official forms of currency), and also "to say the jury's still out on whether this President will live up to his promise" (Kennedy 2009).

This play between validating mainstream politics and policy while simultaneously using art to ask questions about those politics and policy is a hallmark of Fairey's work. When Fairey argues for the right to poster the streets with his Obey Giant poster messages, he does so not through a radical discourse about the street as a public space that should be decommercialized but rather through the discourse of a taxpayer's rights: "I became active as a street artist because I felt public space was the only option for free speech and expression without bureaucracy...I also found the whole idea that you could be arrested for stickering or posterizing as something I wanted to rebel against. In my opinion, the taxpayers are the bosses of the government. I'm a taxpayer—why can't I use public space for my imagery when corporations can use it for theirs?" (Heller 2009: 94). Though Fairey likes to refer to his relationship to corporate capitalism as an "inside/outside strategy" with a "Robin Hood effect," and, as we noted, his reputation as an artist of the street is crucial to his value as an artist, he also stakes out the position that "capitalism is a way for hard work to yield rewards" (Heller 2009: 97). It is precisely the context of creative economies and neoliberalism that allows such comments to seem complementary rather than contradictory. It is also the case that Fairey's style has been enormously effective in creating these boundary-crossings between the street and the mainstream.

Postmodern Style and Creative Copyright

The intersection of the ethos of a neoliberal economy with the ethos of a creative economy is a key feature of a current brand culture that thrives not only on the fluid and flexible relationship of branding processes and cultural production but also on a postmodern aesthetics of remix, mashup, and pastiche culture. Style is a key feature of brand culture, and the dislodging of style from content (in particular, political content) is a key aspect of postmodern style. This raises interesting questions about the relationship of postmodern style in both art and branding to neoliberalism, a context in which Fairey's work can be seen as emblematic. Fairey's work as cultural

entrepreneur cannot be separated from this aesthetic (or style), one that resonated so powerfully in the case of his Obama poster that it can be seen as indicating a new kind of national aesthetic in the United States (Sturken 2009).

Of all of Fairey's work, the Obama poster has had the most influence and been the most successful at circulating in cultural domains beyond branding and street art. The poster has been phenomenally popular, spawning not only many imitators but also a significant number of second-generation references. For instance, during the 2009 upheavals protesting the Iranian election, images of the young woman Neda Agha-Soltan, whose on-camera death created a martyr and icon of the struggle, were remade in the style of Fairey's poster and circulated on the Web. The Fairey poster uses many conventions of U.S. political advocacy, deploying the cliché of celebrity and political affirmation in its image of a leader looking off toward an imagined horizon. Yet, the poster effectively recodes its political discourse in a way that aims to interpellate viewers who are adept at reading style as a form of reference. It thus marks a dramatic shift in American political aesthetics. The colors of the image reference the red, white, and blue of American patriotism (each color is slightly off the traditional patriotic palette), thus playing with the codes of the flag. The image evokes the patterned lines of newsprint that signify Bolshevik agitprop political posters run off a modern press. The poster, in fact, signals in all its aspects a reference to a previous style and plays with the conventional codes of political posterage at all levels. The original poster was created by Fairey to advocate for the campaign; it was then transformed into several official campaign versions with different slogans and was later adapted by Fairey into a White House-sanctioned Inauguration Day poster. One version of the poster formed the template for a Fairey-produced *Time* magazine cover, and the HOPE poster was then acquired by the Smithsonian for the National Portrait Gallery. That a new kind of cultural aesthetic could infiltrate official national culture so quickly was one of the most remarkable aspects of the poster's trajectory (it's worth remembering that most U.S. political aesthetics have been within the realm of kitsch and that the Bush White House's aesthetic was decidedly cowboy kitsch). Fairey's accomplishment in creating a poster that exemplifies a contemporary postmodern aesthetic of pastiche that always operates at more than one level was not remarkable within the context of street posterage and branding that he normally occupies. Yet, its movement into the much more conventional political context was.

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Fairey has a much longer history of playing with the codes of political posters. He creates posters quickly, often producing many versions of images and posting weekly versions on his website for his fan base. This can create a sense of repetition (and the critique that he is redundant, however Warholesque he may be) when his work is seen in museum retrospectives and fine art catalogues. Much of this poster work has deployed pastiche and remake as strategies. Fairey produced a series of posters of political figures such as Angela Davis, Che Guevara, and Lenin (as well as posters of cultural figures like Sid Vicious, Jimi Hendrix, and Bob Marley) by remaking famous images in a mix of historical poster styles. Here, Fairey can easily be situated in the broader context of postmodern remix-remash culture, much of which combines the work of professionals (mashup music) and the so-called amateurs of YouTube culture. It is important to note here the potential disconnection between style and political effect that such work can produce. Fairey plays loosely with the images of political figures and, more importantly, with styles associated with political art, in ways that have sometimes prompted criticism. It could be fairly argued that his use of Soviet styles of graphic postering for much of his work reduces such styles to mere graphics in ways that render their political form into free-floating signifiers easily attached to brands. Again, the "manifesto" for Fairey's Obey Giant company references this kind of free-floating signifier, insisting on the consumer's semiotic labor: "The [OBEY] sticker has no meaning but exists only to cause people to react, to contemplate and search for meaning in the sticker. Because OBEY has no actual meaning, the various reactions and interpretations of those who view it reflect their personality and the nature of their sensibilities" (Fairey 2009).

Fairey is not unique in playing with those graphic styles that rose out of Marxism. Constructionist graphic styles have a long history of appropriation (prompting art critic Hal Foster to criticize the "fetishizing of Constructivism" in the 1980s) (Burgoyne 2008). Even the *Communist Manifesto* itself was repackaged and rebranded on its 150th anniversary into a stylish version designed by Komar and Melamid, one that, it was quipped at the time, could easily be tucked into a Prada purse. However, Fairey has been particularly successful in using these styles to marry brand culture and progressive political positions with a dose of irony. Fairey's 2009 Saks Fifth Avenue campaign features a model with a raised fist evoking Socialist Realist art (and the slogan "Arm yourself with a slouchy bag") and shopping bags emblazoned with "Want It!" all designed with a Rodchenko-style Construc-

tionist aesthetic of red and black. It's worth noting that Fairey has quite effectively deployed the modern reproductive media of stickers and screen printing as means to produce large numbers of posters, which he releases regularly in limited editions to his fans. The styles he borrows and venues he uses have thus been largely modern—billboards, screen printing—rather than digital.

This style is thus one that defines itself through its derivative quality. Fairey's work thrives on the repetitive, redundant effect of modern posters run off a press and uses style as both shaping mechanism and reference. The reference to the original style is its defining feature. Fairey's appropriative strategies, which have been particularly effective examples of this style, show us the ways that brand culture is itself a space of ongoing recirculating appropriation, to the extent to which the derivative can be seen as the essential quality of postmodern branding strategies. The network and circulation are what matter rather than the uniqueness of the thing itself.

In remix pastiche culture with its borrowing, citing, and intertextual meaning, copyright and the ownership of images and ideas are often read as old economy rather than new. In the context of postmodern style and within the context of an open source-creative commons ethos of new media, ownership is a contradictory status of shifting positions. In brand culture, similarly, it is possible for consumers to easily see themselves as brands and for them to have highly affective relationships to brands—less within the terms of the ownership of a commodity and more within the terms of identification and incorporation. The integration of postmodern styles into brand culture, ironically, fits neatly with the discourse of creative commons and open source on the Web and with the discourses of the creative economy flexibility that define creative labor as potentially free and open.

Shepard Fairey's struggles with the ownership of public spaces, which have resulted in his constant arrest, have also extended to his appropriative imaging techniques. In the art world, this has produced the criticism of his style as too derivative to be rewarded museum-world status. In the context of political postering, it produced the now well-known lawsuit in which the Associated Press sued Fairey in February 2009 for copyright infringement. Until recently, Fairey had always claimed that he did not know the original source of the photograph that he used as the image template for his Obama poster, one of thousands that were taken of the then-candidate and countless campaign events. It affirms Fairey's position that it took many months for someone to track the image down. To add to the messiness and compli-

noting that Fairey has quite a variety of media of stickers and screen prints, posters, which he releases in various venues he borrows and venues he borrows, screen printing—rather

through its derivative quality. The dominant effect of modern posters is the mechanism and reference. The feature. Fairey's appropriative examples of this style, show the process of ongoing recirculating and how it can be seen as the essential network and circulation are defining itself.

By citing, and intertextual references and ideas are often read as part of postmodern style and the commons ethos of new meeting positions. In brand culture they see themselves as brands in relation to brands—less within and more within the terms of the logic of postmodern styles into the discourse of creative commons and the courses of the creative economy, essentially free and open.

The relationship of public spaces, which was extended to his appropriative practices produced the criticism of his world status. In the context of the well-known lawsuit in which the artist was sued for copyright infringement, he did not know the original image template for his Obama campaign poster—then-candidate and counter-sued—that it took many months to produce the messiness and compli-

cated tensions involved in contemporary copyright and fair use legal battles, at the time of writing, Fairey has now admitted that he was “mistaken” about which photograph he actually used for reference in the HOPE poster and has released a public statement in which he admits that “he sent false images and deleted other images to conceal his mistake” (this admission has added an even more dramatic element to the ongoing fair use legal battle between Fairey and the Associated Press, and the outcome of the case has yet to be determined) (Ng 2009). Regardless of recent changes in the fair use case, AP filed the case after the poster demonstrated significant success in the market: it became a hot commodity, selling out of all copies, with a commemorative edition acquired by the National Portrait Gallery. AP claimed that Fairey had unfairly used a photograph taken by Manny Garcia, a photographer who was contracted to AP at the time he took the image; Garcia responded by stating that he was honored by Fairey's use of the image and that it was not covered by his AP contract. Fairey responded by claiming “fair use” of the original photograph and countersuing AP. He stated:

I am fighting the AP to protect the rights of all artists, especially those with a desire to make art with social commentary. This is about artistic freedom and basic rights of free expression, which need to be available to all, whether they have money and lawyers or not. I created the Obama image as a grassroots tool solely to help Obama get elected president. The image worked due to many complex variables. If I could do it all over again, I would not change anything about the process, because that could change the outcome (Fairey 2009).

Fairey is basing his case on the way in which his poster is a “transformative” work of the original photograph, which was taken as one of many hundreds of news photos of the candidate. As Jonathan Melber has written, Fairey “set out to make an image for a political campaign: something that would inspire people to support a presidential candidate and symbolize their hope. He was creating something aspirational, not descriptive; his message was subjective opinion, not objective fact” (Melber 2009). Initially, Fairey was represented by the Stanford Law School's Fair Use Project, founded by Lawrence Lessig, organizer of Creative Commons, and directed by Tony Falzone.

The AP case and its focus on copyright and the ownership of a particular image represent one of the ways that Fairey's creativity and postmodern style can be thought of as a kind of brand. The case revolves around issues of private property—who has rights to a particular image, who owns it, and

who can profit from it (Edelman 1979)? Creativity, in this context, is an object within the law, susceptible to appropriation, sale, and contracts. In this same context, however, it also symbolizes the creative autonomy of an artist, something much less tangible, ostensibly not intended for profit and the logics of merchandising. The contradictions contained within the branding of creativity are demonstrated by Fairey's response to AP: Fairey's legal team issued a response to AP's accusations in April 2009, which denied most of the claims made by AP and included several photographs and art works (including Fairey's own as well as some by Jeff Koons, Banksy, and Keith Haring) found on the AP website, claiming that AP did not have permission to use those images. While Fairey maintains that he did not include those images to charge AP with a violation but simply to point out the inconsistency in the case, the back-and-forth between AP and Fairey raises some important issues for creative labor in the creative economy (Fairey 2009). In particular, the Fairey "fair use" case signals residual tensions between a historical opposition between commerce and creativity (or, more specifically, art) that are obfuscated within the contemporary creative economy. Fairey has in the past sent "cease and desist" letters to artists producing work with the "OBEY" slogan, notably to the CafePress store about a work by Larkin Werner entitled *Steelerbaby* (Sherwin 2009). Obey Giant contended that the merchandise involving the word "obey" was an infringement on his trademark. (Werner claims that his use of "obey" was not inspired by Shepard Fairey; since the letters were exposed in the blogosphere and Fairey filed his AP lawsuit, they have been rescinded.) While such skirmishes have created an active blogosphere discussion, they raise broader issues related to creative labor and creative commons values.

The ethos that defines creative workers as anyone with the know-how to channel their inner creativity is thus supported and legitimated by labor practices that are characteristic of the neoliberal era, practices that suggest the coexistence of and intersection between creative activity and exploitation, as Marc Andrejevic (2008: 25) observes. These claims of copyright infringement, fair use, and trademark violation are complex and contradictory precisely because of this environment. If creative workers all espouse an ethos of creative commons and open source, who will pay the bills? As Peck argues:

Discourses of urban creativity seek to normalize flexible labor-market conditions, lionizing a class of workers that can not only cope with, but positively revel in, this environment of persistent insecurity and intense, atomized competition, just as they

enforce modes of creative governmentality based on compulsory individualism, compulsory innovation, compulsory performativity and productiveness, compulsory valorization of the putatively new (Peck 2005: 764–65).

In one sense, Shepard Fairey and the rise of the creative, cultural entrepreneur can be understood as part of a larger commercial endeavor, where the branding of creativity demonstrates some of the latest business maneuvers in an increasingly competitive urban youth market. However, Fairey's work, and its enthusiastic reception, also prompt questions about how and in what ways branding strategies have expanded beyond conventional marketing and into lifestyles, identities, and culture. Moreover, beyond merely encroaching into new domains, they suggest reshaping and reimagining of these domains such that it is more accurate to think not of branding expanding into culture but of branding *as* culture itself.

In an era when the "Obama brand" is part of everyday parlance due in no small part to Fairey's work, debates over the line between art and advertising or authenticity and commercialism seem tired and passé. It becomes pressing instead to ask questions about what cultural and critical significance the brand has in contemporary capitalism. Shepard Fairey's body of work demonstrates the importance of taking into account the complexities of consumer identity, affect, and desire when discussing alternative systems of consumption. We are less interested in the contradictions at work in Shepard Fairey the artist than we are in what he represents about the complex contradictions of cultural entrepreneurship at large: both the potential for social activism to thrive under the guise of consumerism and for artists and workers to be incorporated in new yet similarly disabling ways into the workplaces and work lives fostered by neoliberalism. Fairey's model of anti-consumerist cultural entrepreneurship rejects the discourse of Naomi Klein's *No Logo* with its binary of consumerism and social activism and thus makes a kind of sense within a neoliberal context. Fairey's success in maintaining a pose of rebellion while working the marketplace, the art world, and the street can be seen in a different light than, for instance, the success of corporations such as Nike in selling themselves as rebels while dominating the marketplace. In his aesthetic of the derivative, his playful negotiation of capital, he exemplifies a creative generation that has effectively created a new meaning of the brand.

It is easy to critique Fairey's position; the challenge is to take its implications seriously. Indeed, interrogating the relationships between politics, individual identity, and consumer culture seems particularly urgent in the U.S.

Creativity, in this context, is an appropriation, sale, and contracts. In the case of the creative autonomy of an artist, it is not intended for profit and is contained within the brand's response to AP: Fairey's legal action in April 2009, which denied AP several photographs and artworks by Jeff Koons, Banksy, and others, claiming that AP did not have the right to maintain that he did not infringe but simply to point out the difference between AP and Fairey's labor in the creative economy. The "use" case signals residual tensions between commerce and creativity (or, within the contemporary creative industry, "desist" letters to artists prominently to the CafePress store about the word "obey" (Sherwin 2009). Obey Giant's use of the word "obey" was an issue that his use of "obey" was not resolved in the courts (the works were exposed in the blogosphere and have been rescinded.) While the discussion, they raise questions about creative commons values.

Anyone with the know-how to be exploited and legitimated by labor in the neoliberal era, practices that suggest creative activity and exploitation. These claims of copyright and ownership are complex and contradictory. Creative workers all espouse an ideology: who will pay the bills? As Peck

able labor-market conditions, livelihood, but positively revel in, this globalized competition, just as they

today, where questions include: What is it about the contemporary neoliberal context that makes Fairey and his body of artwork not only intelligible, but perfectly logical? What are the conceptual, institutional, and economic apparatuses that have been advanced, embraced, and made normative in the contemporary cultural economy—the “creative” economy—that appeal to our intuitions and affect, that tap into desire, that simultaneously re-imagine and re-affirm values? How does brand culture support and legitimate these conceptual apparatuses? And, if nothing else, a focus on Fairey’s Obama poster and the power it achieved should remind us of the potential of these new forms of cultural entrepreneurship to inspire new ways of thinking. This poster has, in essence, changed the aesthetic of American political and patriotic culture. That is no small thing.

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