



# IS IT MY RIGHT TO COPY?

Copyright and Art-Making

Source: “*Kind of Screwed*” by Andy Baio

## WHAT IS COPYRIGHT?

# cop·y·right

The exclusive legal right, given to an originator or an assignee to print, publish, perform, film, or record literary, artistic, or musical material, and to authorize others to do the same.



## ANDY BAIIO

- Andy Baio is an entrepreneur who manages festivals and art/design companies.



# KIND OF BLUE TO KIND OF BLOOP



- A chiptune tribute to Miles Davis' *Kind of Blue* that Baio produced. All cover songs were licensed from Miles Davis's publisher and sales gave all total profits to a fundraiser.



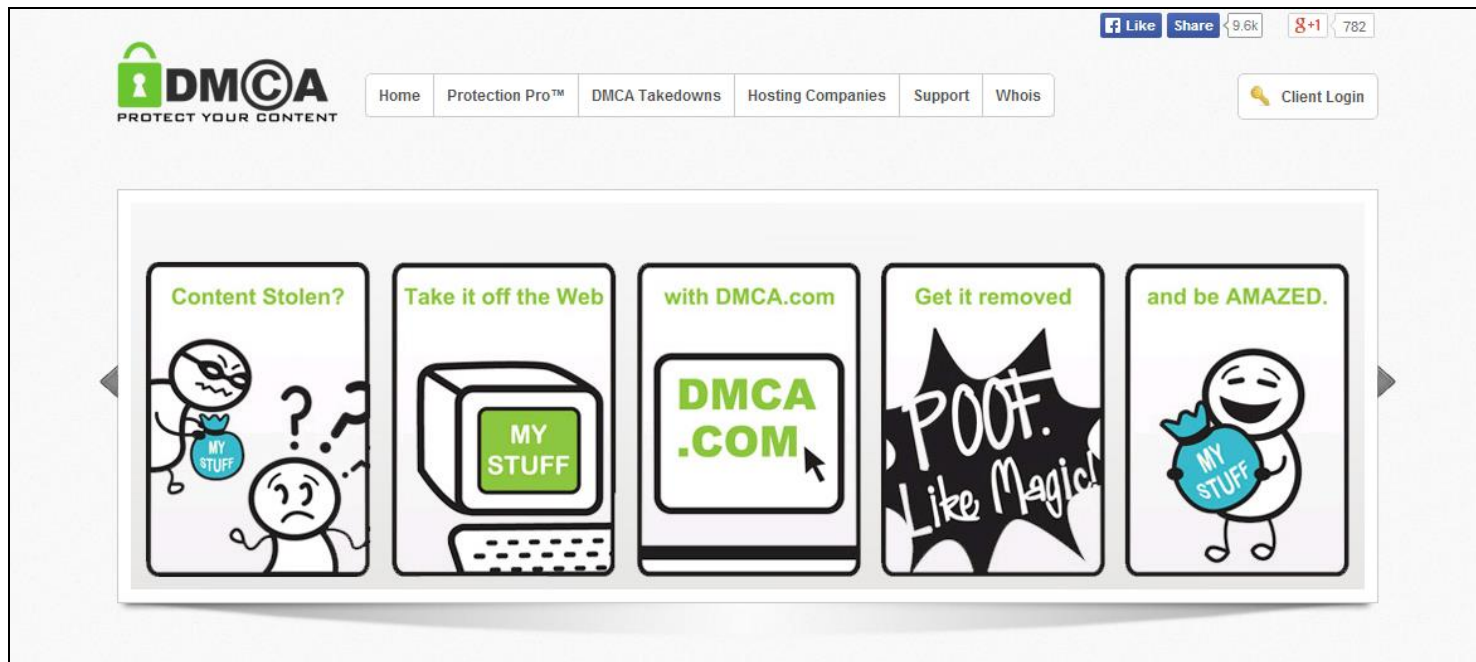
## “SLOPPY” RIGHT

- Baio was contacted by attorneys representing famed New York photographer Jay Maisel, the photographer who shot the original photo of Miles Davis used for the cover of *Kind of Blue*.
- They alleged that Baio was infringing on Maisel's copyright by using the illustration on the album .
- The stated that Baio violated Digital Millennium Copyright Act (DMCA) violations."



# DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA)

- Sets limitations on copyright infringement.
- Defends rules on bypassing secure digital items.



The image shows a screenshot of the DMCA.com website. At the top left is the logo for DMCA, which includes a green padlock icon and the text "DMCA PROTECT YOUR CONTENT". To the right of the logo is a navigation menu with links for "Home", "Protection Pro™", "DMCA Takedowns", "Hosting Companies", "Support", and "Whois". Further right are social media sharing buttons for Facebook (Like, Share, 9.6k) and Google+ (+1, 782), and a "Client Login" button.

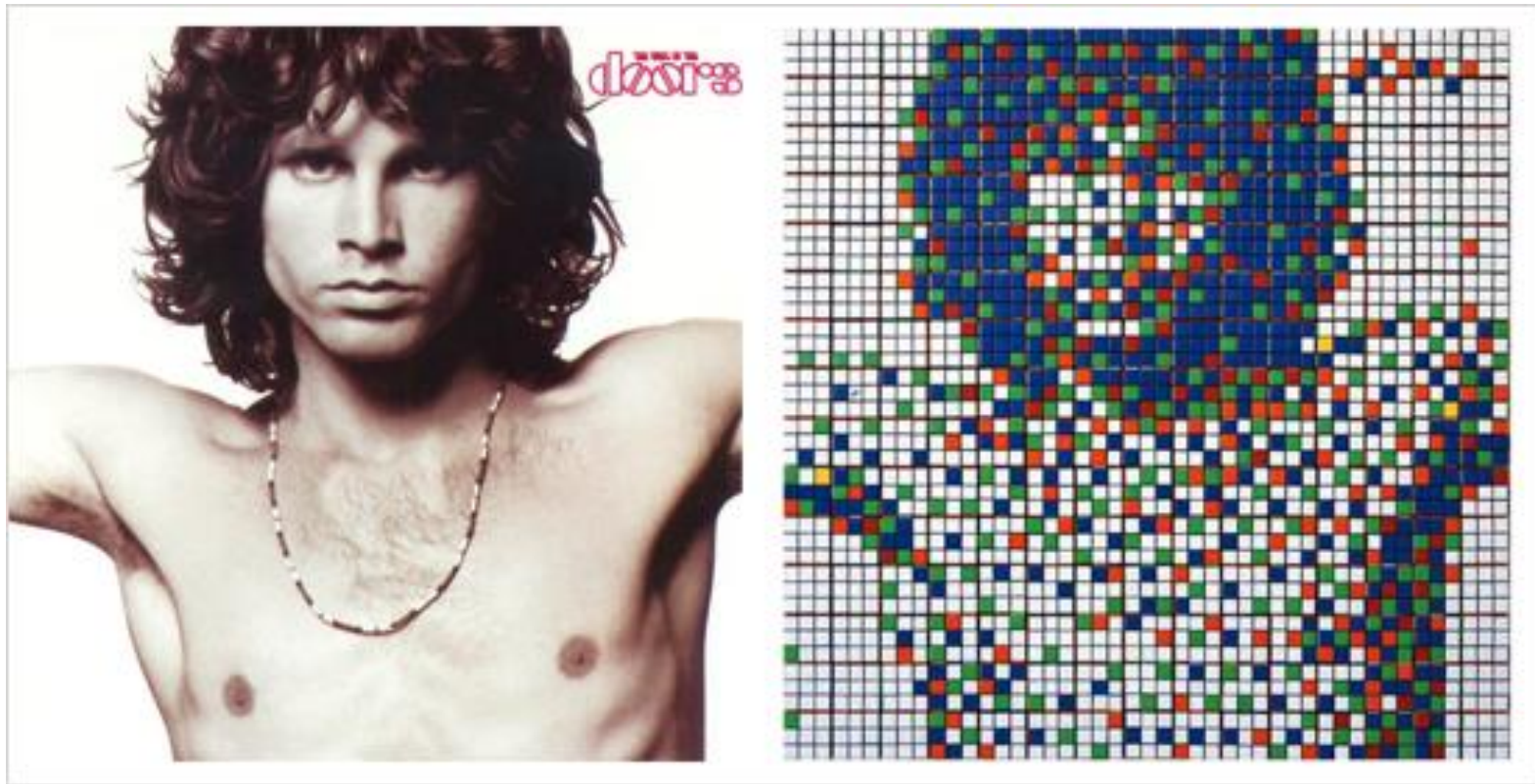
The main content area features a five-panel comic strip with the following text and illustrations:

- Panel 1:** "Content Stolen?" - A thief character with a mask and a blue bag labeled "MY STUFF" is stealing from a sad-looking character who has question marks above their head.
- Panel 2:** "Take it off the Web" - A computer monitor displays "MY STUFF".
- Panel 3:** "with DMCA.com" - A computer monitor displays "DMCA .COM" with a mouse cursor pointing at it.
- Panel 4:** "Get it removed" - A large black starburst contains the text "POOF. Like Magic!".
- Panel 5:** "and be AMAZED." - The thief character is now holding the "MY STUFF" bag and looking happy.



# FAIR USE?

- How do you decide if what you are doing is Fair Use or a Violation of Copyright?



Invader



# FOUR POINTS TO CONSIDER ON FAIR USE

1. The purpose and character of your use: Was the material transformed into something new or copied verbatim? Also, was it for commercial or educational use?
  2. The nature of the copyrighted work.
  3. The amount and substantiality of the portion taken.
  4. The effect of the use upon the potential market.
- **There is no clear definition for Fair Use!**





# FAIR USE?

- Has the material you have taken from the original work been transformed by adding new expression or meaning?

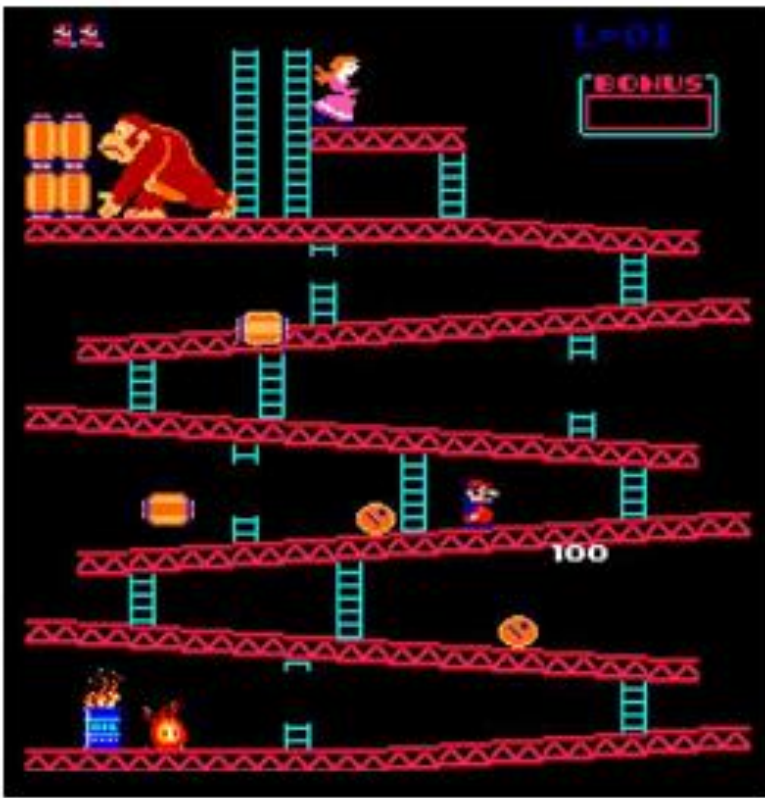


John Taylor



# FAIR USE?

- Where do you draw the line? (No Pun Intended 😊)



Brock Davis



# FAIR USE?

- Can a promotional poster REALLY be a copyright infringement!?



Shepard Fairey



# FAIR USE?

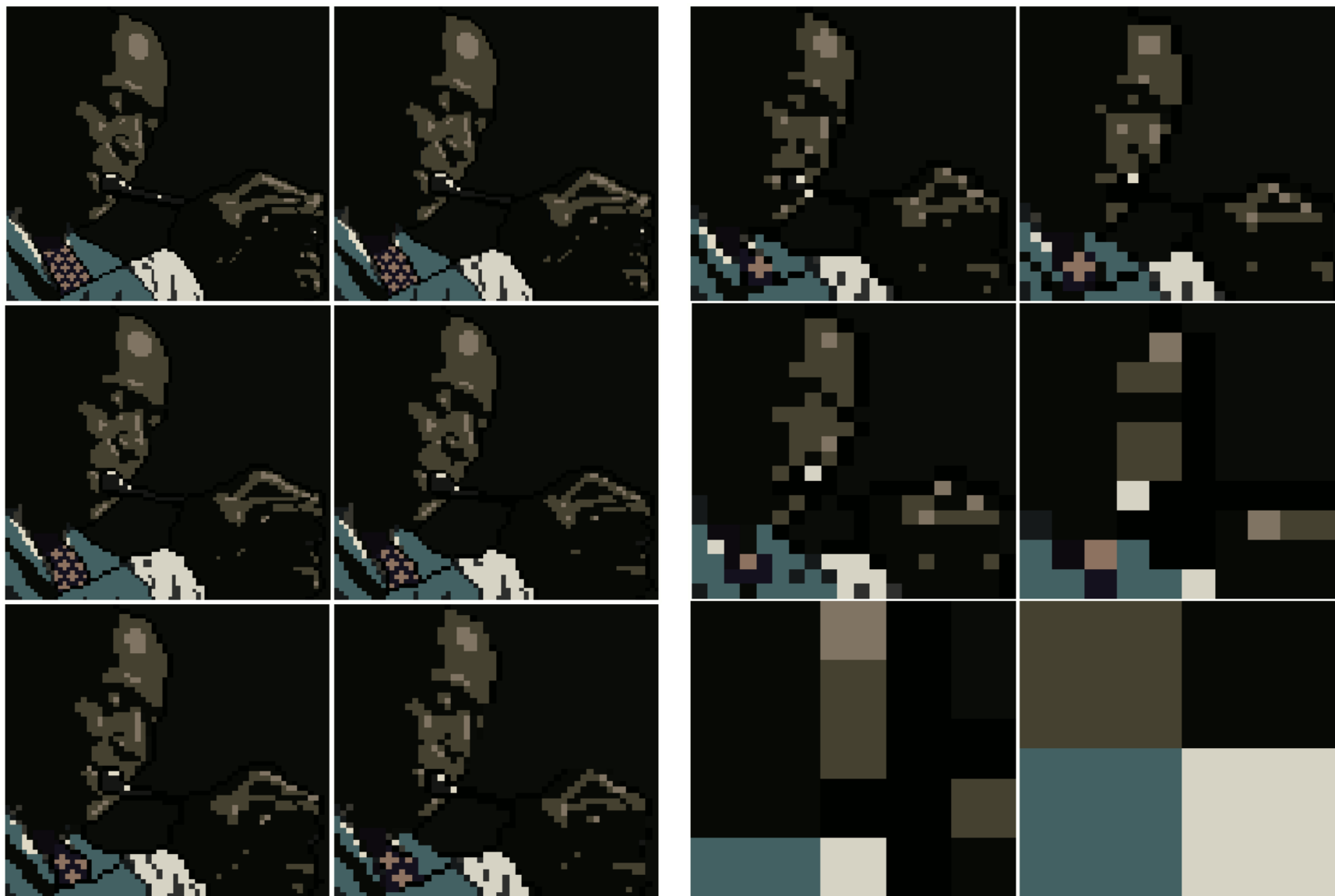
- Is this a copyright violation?



Mike Stimpson



# AT WHAT POINT IS THIS A COPYRIGHT VIOLATION?



## WE LIVE IN A WORLD OF LAWSUITS!

- If you're borrowing inspiration from any copyrighted material, even if it seems clear to you that your use is transformational, you're in **DANGER**.





# WHAT IF YOU WERE MAISEL?

- “Maisel is a purist when it comes to his photography,” his lawyer wrote. “With this in mind, I am certain you can understand that he felt violated to find his image of Miles Davis, one of his most well-known and highly-regarded images, had been pixellated, without his permission, and used in a number of forms including on several websites accessible around the world.”



## IN CONCLUSION...

- What is the best way to stay clear of copyright?

**○ MAKE YOUR  
OWN WORK!**

- Everyone has inspiration. Transform yours and be original!





# YOUR TASK

- Choose 5 items of media that define your personality.
- Examples: Album Covers, DVD Cases, Posters, etc.
- Simplify and reimagine them so that no one would vote that they are a copyright infringement.
- These must be drawn in two colors: Black and White.

