

Estate Directed Moving Image Preservation

“Many works of art simply disappear without the support of an interested heir of the artist.”¹

“[Heirs] may have no artistic talent of their own, but they bask in reflected glory, receive royalties and determine how works are interpreted or exploited.”²

These two opposing and clearly partisan statements reveal the range of conflicting views on the role that heirs play as advocates for their relatives, both in terms of the work itself and, maybe more importantly, in shaping the artist’s public perception. In spite of the fact that the first statement is from an amicus brief in the *Eldred v. Ashcroft* case supporting the, to say the very least, troubling 1998 Copyright Term Extension Act, it attests to the positive stewardship that estates can provide to promote and distribute the artwork. Without ignoring the fact that the quote neglects to mention the entire museum and archival fields, likely intentional considering the brief’s goal to sway the court to lengthen copyright terms through lionizing the heir, family members and partners of artists have a more personal connection to the work than an unrelated curator or archivist. Ideally, this results in the heir assuming an active and forceful advocacy for the artist that keeps the work vital and in the public eye. The reality though is more complicated^{3,4}.

¹ Corcoran, Thomas G., Jr. and Jay A. Rosenthal, Brief for Recording Artists Coalition as amicus curiae in support of respondent, *Eldred v. Ashcroft*, No. 01-618, 5 Aug. 2002, 5.

² Riding, Alan, “Moral Rights or the Outraged Heir: Real-Life Drama at the House of Molière,” *The New York Times*, 29 May 2007.

³ For an example of the contentious legal disputes heirs at times get embroiled in see: Sisario, Ben, “Family Discord Over Spoils From the Punk Shrine CBGB,” *The New York Times*, 3 Dec 2008.

The second quote is from an article in The New York Times on the power – flowing from copy and moral rights – estates have to disallow exhibitions, performances, and scholarship that do not meet their standards. The article recounts how the brother of the deceased playwright Bernard-Marie Koltès, who holds the copyright for the plays, shut down a production that ignored a casting direction insisted on by the playwright⁵. This kind of prohibition, even if flowing directly from the artist's expressed intentions, quickly results in ill will between all sides. As clearly expressed in the Times quote, critics, audiences, and other artists conceive of the estate as opportunistic philistines who seek to limit creativity and scholarship in the pursuit of profit. In response, and this is a conjecture based on the nature of the interdiction ordered by Koltès' brother, beyond exercising its legal right to control how the work is performed and displayed estates are indeed attempting to dictate how the works are "exploited"- though not in the sense of to simply make use of, but in the negative connotation of being taken advantage of. In their attempt to protect the legacy of the artist from exploitation the heirs are cast in the role of the heavy. Depending on the situation this may or may not be a fair accusation, but when taken to its most invidious extreme this results in a situation that benefits neither scholar, critic, producer, archivist, nor family member; with the true loser being the artist and the work.

⁴ For an example from the literary world of Stephen Joyce limiting research into his grandfather's writings see: Max, D.T., "The Injustice Collector: Is James Joyce's Grandson Suppressing Scholarship?" The New Yorker, 19 Jun. 2006.

⁵ Riding.

One verging on tragic example of this in the moving image world is the battle between John Cassavetes' widow Gena Rowland and film scholar Ray Carney over the long lost original version of Cassavetes' first film Shadows. The details of Carney's 17 year obsessive and ultimately successful search for the missing print are described in more detail elsewhere⁶, but suffice to say it's a testament to the necessity of doggedly pursuing lost films and that luck and investigation can occasionally result in the unearthing of presumably lost masterpieces. However, what should have been a success for Carney and an incredible boon for a richer understanding of the origins of the American underground film movement was quashed when Rowlands, declaring that Cassavetes had disavowed the first version of Shadows, insisted it not be screened or released on DVD⁷.

To be sure, Rowlands does appear to be repressing legitimate inquiry into her husband's work to favor her interpretation of him and his films. Based on Carney's not un-biased accounting⁸ Rowlands' actions resemble what Judge Pierre Leval calls "widow censor" (a rather problematic term with overtones of patriarchal condescension) which is when an estate doles out access to researchers and curators who reinforce the estate's viewpoints while freezing out those that present an undesirable image of the artist⁹. In fact, Carney explicitly accuses Rowlands of such behavior when he states she "is devoted to

⁶ Carney, Ray, "The searcher: John Cassavetes' film Shadows is an American classic. But what happened to the missing first version of the masterpiece?" Guardian, 21 Feb. 2004.

⁷ "Cassavetes: Boxes and Shadows", Green Cine Daily, 9 May 2004.

⁸ Carney, Ray, "The Response – Denial, Hostility, 'Remove all references from your web site'," Ray Carney, Accessed on 6 Dec. 2008 at <http://people.bu.edu/rcarney/discoveries/discrowlands.shtml>.

⁹ Leval, Pierre N, "Toward a Fair Use Standard", Harvard Law Review 103.5 (1990): 1105.

perpetuating a myth about her husband's life and conduct and [*sic*] resentful of Prof. Carney for not sticking to the party line"; he further decries her "attempt to silence him"¹⁰.

All this might be true¹¹, but even if it is Carney himself behaves at times in a manner that seems impolitic and is sure to further inflame the situation. In language that greatly eclipses the belittling degree of the Times quote at the beginning, Carney discounts Rowlands' prerogative to be involved in issues of film history and preservation: "Rowlands is not a thinker. Her mind is not analytic. She has little knowledge of film history or criticism. She has no talent in that direction and little interest. When it comes to understanding the function of film criticism, she's pretty much an ignoramus"¹². Further, he takes on a self-aggrandizing role that begins to assert a claim for a level of moral control over Cassevetes' work that is questionable. He states "I know more about Cassavetes' work and what is available than anyone alive"¹³ and, almost shockingly, that he is "attempting to speak for Cassavetes from the grave, fighting for the release of his unreleased films and unpublished manuscripts"¹⁴. He truly might know more about Cassavetes' work from an academic standpoint, but such claims – to say nothing about egregious insults of Rowlands – will do

¹⁰ Carney, "The Response".

¹¹ The point of this exercise is not to adjudicate each side's claims, but to examine how conflict between estates and researchers can spiral into a negative rhetoric that precludes access to artistic works – clearly not the original intent of either party.

¹² Carney, Ray, "Interviews with Carney about Rowlands", Ray Carney, 2004, Accessed on 6 Dec 2008 at <http://people.bu.edu/rcarney/discoveries/discint.shtml>.

¹³ Carney, "Interviews".

¹⁴ Carney, Ray, "How (and How Not) to Preserve a Precious Artistic Legacy (Marty Duda interviews Ray Carney for *Real Groove*)", Ray Carney, 2008, Accessed on 6 Dec 2008 at <http://people.bu.edu/rcarney/JCinsecure/criticism.shtml>.

nothing to help his case; more importantly it won't do anything to get the first version of Shadows widely released.

To prove his case that the original edit of Shadows is significantly different from the authorized version, a claim belied by Rowlands, Carney has uploaded three clips from it on to Google video¹⁵. However, in an act of intellectual land-grabbing, he has overlaid his name over the videos. A strong case can be made that this version of Shadows is in the public domain since it was apparently never registered for copyright, but clearly the film is not Carney's. Obviously, if the film is in public domain he's done nothing wrong legally speaking, but his acquisitive declaration will do nothing to sway Rowlands' opinion and persuade her to release the film. Further, it runs counter to the spirit of openness of information that should pervade the academic and archival fields. True, he tirelessly pursued it and deserves credit for its discovery, but for him to imply some form of ownership and control over it is just as surprising as Rowlands' historical revisionism whitewashing it out of existence.

This struggle over who has the right to define the artist is a driving factor in the efforts of Orson Welles' daughter Beatrice Welles-Smith to promote and regulate her father's work. She inherited the rights to only one of Welles' films, his 1952 Othello. However, through a mixture of aggressive litigation and a legally dubious leveraging of moral rights (no such concept truly resides in US copyright), Welles-Smith has been able to complicate efforts to restore, release and research many of her father's other films, over which it must be stressed she

¹⁵ Carney, Ray, "Mail, Events, Screenings, News: 60", Ray Carney, 2007. Accessed on 6 Dec. 2008 at <http://people.bu.edu/rcarney/aboutrc/letters60.shtml#vids>.

has no legal authority. This includes both those made for Hollywood production companies, such as Citizen Kane^{16,17}, and those made independently such as his “last” film The Other Side of the Wind¹⁸. These actions on her part have cancelled screenings of Kane¹⁹, long delayed the release of Magnificent Ambersons on DVD²⁰, and effected editorial control over the DVD commentary on Touch of Evil²¹. She has also forbidden any screenings or video release of Welles’ Filming Othello, which Welles willed to his mistress Oja Kodar, because Welles-Smith claims underlying rights infringement for its inclusion of clips from Othello²².

There is some small amount of irony in seeing Universal hemmed in by the very same threat of lawsuits that the movie and larger content industry are more than willing to deploy in their striving for a creatively limited culture of permissions. However, this ignores both Universal’s acts of absolution²³ for its disrespectful 1958 edit of Touch of Evil, which contravened Welles’ artistic wishes, but more importantly Welles-Smith’s actions seriously effect the level and

¹⁶ Wilson, Jeff, “On The Docket”, Wellesnet, 18 Mar. 2008, Accessed on 3 Dec. 2008 at <http://www.wellesnet.com/?p=214>.

¹⁷ Macnab, Geoffrey, “One of our classics is missing: Why won’t Beatrice Welles let audiences see her father’s greatest movie?” The Guardian, 29 Aug. 2003, Accessed on 1 Dec. at <http://www.guardian.co.uk/film/2003/aug/29/2>.

¹⁸ Love, Damien, “Inherit the Wind: Talking with Peter Bogdanovich and Joseph McBride About The Other Side of the Wind”, Bright Lights Film Journal, Feb. 2005, 55, Accessed on 1 Dec. 2008 at <<http://www.brightlightsfilm.com/55/windiv.htm>>.

¹⁹ Macnab.

²⁰ Wilson.

²¹ Rosenbaum, Jonathan, Discovering Orson Welles, Berkeley: University of California Press, 2007, 256.

²² Hall, Phil, “Filming Othello”, Film Threat, 30 Mar 2003, Accessed 1 Dec 2008 at <http://www.filmthreat.com/index.php?section=reviews&id=4392>.

²³ *cf.* the recently released DVD set of Touch of Evil with the film’s three versions. Yes, this falls under the rubric of re-packaging content to sell it over and over again to the same customers in “new and improved”, “digitally remastered” upgrades, but the set seems genuinely infused with an effort at making film history accessible.

depth of academic and popular discourse on her father's films. Others have commented on the unfortunate consequences of her actions and that they have the same effect of stifling and disrespecting the work in a way ironically analogous to how producers consistently interfered with Welles' vision during his lifetime²⁴. This usually results both in astonishment that she would behave this way and attempts to psychologically explain her actions²⁵.

Such suppositions are mere conjecture and are outside the purpose of this paper, but what is not in doubt is the level of vitriol her actions engender in the Welles community. Many of the extreme examples come from Internet blogs and chat rooms, no surprise considering the downward spiral the level of dialogue often takes in the hothouse environment of insular web communities. A more polite version is voiced by David Cairns who wonders "*what IS IT with Beatrice Welles?*"²⁶ [Italics and capitals in the original.] In cruder instances, the language turns to curse words²⁷, schoolyard taunts, and accusations of unbridled greed. In a slightly hyperbolic statement again echoing the Times quote from the beginning, commenter Jonp72 writes "Beatrice Welles is Exhibit A in demonstrating how our nation's copyright laws promote the Paris Hilton-ization of our cultural heritage by allowing no-talent offspring to suck the marrow out of the

²⁴ Macnab.

²⁵ Cairns, David, "Bea negative", Shadowplay, 7 May 2008, Accessed on 1 Dec. 2008 at <http://dcairns.wordpress.com/tag/orson-welles/page/2/>.

²⁶ Cairns.

²⁷ "Full Version: 322 – The Complete Mr. Arkadin", The Criterion Collection Forum, Accessed on 1 Dec. 2008 at <http://www.criterionforum.com/lofiversion/index.php?t1317.html>.

output of great artists and performers”²⁸. Without giving too much credit and importance to heated comments from the peanut gallery, and while the larger and obviously impassioned cinephile audience does not directly make decisions on issues of moving image preservation, vocal enthusiasts such as these exert a disproportionate influence on both what is released on DVD and the direction and tone of film culture, especially now given the decline in print media with its more measured film criticism.

One unfortunate effect of this acrimonious discourse is the way that it colors the work that Welles-Smith has done to preserve and promote her father’s work. In 1992 a “restored” version of the “lost” film Othello was released under her authorization. A survey of the generally positive press response at the time and the way commentary turned against her after she began her litigious campaigns allows for both an examination of changing attitudes and knowledge of film preservation and the role estates play.

In 1989 Welles-Smith became aware that a European company was planning a re-release of Othello. She contacted a producer of movie trailers, Michael Dawson, and enlisted him to track down any remaining negatives to keep them out of others’ hands and to eventually re-release it themselves. Dawson quickly struck gold locating original nitrate elements in a New Jersey film depot. The confusion over exactly what was found points to the interchangeable nomenclature used on film elements and the to be expected confusion on the

²⁸ “War of the Welles: The Torturous Journey of The Other Side of the Wind to the Big Screen”, MetaFilter, 15 Apr. 2007. Accessed on 1 Dec. 2008 at <http://www.metafilter.com/60323/War-of-the-Welles-The-Torturous-Journey-of-The-Other-Side-of-the-Wind-to-the-Big-Screen>.

part of the general press: Ebert reports Dawson discovered a master negative and soundtrack²⁹; Carr a “master dupe negative and edited camera original negative”³⁰; and Yagoda talks about both a duplicate negative and original negative, but it’s unclear if he’s talking about two different elements or using different names for the same element³¹. Dawson deposited the original elements in a bank vault for safe keeping while they attempted to gain funding for the restoration and release. They entered into a business relationship with Julian Schlossberg of Castle Hill Productions who funded the either \$500,000 or \$1,000,000 year long restoration (both amounts are given). The work included some image touch-up but the vast majority of the reconstructive efforts went to addressing the non-synchronous and admittedly less-than optimal sound Welles used in the original. This audio revision utilized at the time new digital technologies to re-synch the dialogue, including time stretching words to fit the movements of the actors’ mouths, recording new foley effects, creating a reinterpreted and newly recorded score by the Chicago Symphony Orchestra, and a remastering of the original mono track into what the journalists mistakenly called “StereoSurround” (a common enough confusion of the Dolby SR – spectral recording – audio format used in film prints and the consumer audio format Dolby Surround). [This overview is compiled from information from the following

²⁹ Ebert, Roger, “Othello”, *Chicago Sun-Times*, 10 Apr. 1992, Accessed on 1 Dec. 2008 at <http://rogerebert.suntimes.com/apps/pbcs.dll/article?AID=/19920410/REVIEWS/204100303/1023>.

³⁰ Carr, Jay, "Orson Welles' Fevered, Fantastic 'Othello'", *Boston Globe* (pre-1997 Fulltext), 15 Apr. 1992: 95.

³¹ Yagoda, Ben, “FILM; Welles's 'Othello' Made Chaos Into an Art Form”, *The New York Times*, 1 Mar. 1992. Accessed on 1 Dec. 2008 at <http://query.nytimes.com/gst/fullpage.html?res=9E0CE1D61239F932A35750C0A964958260>.

articles^{32, 33, 34, 35, 36, 37}.] As will be discussed later this manipulation of the soundtrack and the resulting aesthetic and historical implications towards how Welles is conceived of as a filmmaker became the flashpoint around which Welles-Smith's detractors coalesced.

The popular press' reaction to the release of the restoration in 1992 is almost entirely celebratory with many critics revising their opinion of the film to the level of Kane or Ambersons³⁸. Nor does anyone in anyway besmirch Welles-Smith's role in the restoration either on grounds of avarice or a lack of knowledge of film history or preservation. In fact, the exact opposite is true with a number of the articles utilizing her part in the process as the main hook. This is quite obvious in the titles of some of the articles: "A Daughter's Crusade: Find Father's 'Lost' Films"³⁹, "Othello Redux: A Tribute to Dad"⁴⁰, "Welles' Daughter Gives Othello New Life"⁴¹, and "Orson Welles' Gift to His Daughter: Classic Othello"⁴². Some of these reports exhibit the uncritical tone of celebrity driven puff-pieces. For example, Julie Saloman in the winsomely titled "Welles's Othello Gets a

³² Ebert.

³³ Carr, Jay.

³⁴ Yagoda.

³⁵ Caro, Mark, "Welles' cargo: The remarkable resurrection of Orson's 'Othello': [FINAL EDITION, C]", Chicago Tribune (pre-1997 Fulltext) [Chicago, Ill.], 16 Feb.1992, 6, Chicago Tribune, ProQuest, 1 Dec. 2008, <http://www.proquest.com/>.

³⁶ Gelmis, Joseph, "Othello,' Better than Ever", Newsday, 15 Jan 1993: 76.

³⁷ Schaeffer. Stephen, "Welles' Daughter Gives 'Othello' New Life", Boston Herald, 12 Apr. 1992: 053.

³⁸ Canby, Vincent, "Critic's Notebook; Welles's 'Othello,' Crowned in Glory: [Biography]", New York Times [New York, N.Y.], 6 Mar. 1992, Late Edition (East Coast): C.1, ProQuest National Newspapers Premier, ProQuest, 2 Dec. 2008, <http://www.proquest.com/>.

³⁹ Elliot, David, "A Daughter's Crusade: Find Father's 'lost' Films", The San Diego Union - Tribune 13 Aug 1992: NIGHT.D.

⁴⁰ Hartigan, Patti, "'Othello' Redux: A Tribute to Dad", Boston Globe (pre-1997 Fulltext), 15 Apr 1992: 89.

⁴¹ Schaeffer.

⁴² Ryan, Desmond, "Orson Welles' Gift to His Daughter: Classic 'Othello'", Philadelphia Inquirer, 30 Apr. 1992: C.7.

Makeover” writes “This kind of touch-up and makeover naturally appealed to Beatrice Welles-Smith, daughter of the late Orson Welles and owner of her own cosmetic company. Ms. Welles-Smith [...] decided to apply her interests in facial touch-ups and film to her father’s legacy”⁴³. It is, to say the least, an interesting comparison to draw between film restoration and cosmetology and is perhaps somewhat indicative of the value critics place on preservation. Many – less unintentionally demeaning to Welles-Smith and preservation – report as much on the relationship between Welles-Smith and her father as they discuss the film, with a common subtext being she finally and dutifully realized the unrealized intentions of Welles. Director Henry Jaglom, a close friend of Welles, goes so far to compare Welles-Smith to King Lear’s devoted daughter Cordelia⁴⁴ (though considering how things turn out for Cordelia, this is perhaps a not entirely well-meant comparison).

For mainstream sources, a number of the articles go into considerable depth on the technical nature of the restoration. Gelmis goes as far as to write “the recovery of Othello is a case study in modern film restoration”. He discusses the volatile nature of nitrate film, the steps in transferring the original to safety film via a wet-gate printer, the new intermediate elements created, and the utilization of new digital audio technologies to manipulate the soundtrack⁴⁵. Caro⁴⁶ and

⁴³ Salamon, Julie, "Film: Welles's 'Othello' Gets a Makeover", Wall Street Journal [New York, N.Y.], 5 Mar. 1992, Eastern edition: PAGE A12, ABI/INFORM Global, ProQuest, 1 Dec. 2008 <http://www.proquest.com/>.

⁴⁴ Hartigan.

⁴⁵ Gelmis, Joseph, "Othello,' Better than Ever", Newsday, 15 Jan. 1993: 76.

⁴⁶ Caro.

Shannon⁴⁷ go into some detail regarding the audio restoration including interviewing the audio engineers and restoration technicians involved in the work.

Notable in all of these articles – the scant exceptions being discussed below – is the completely uncritical stance taken towards both the technologies of restoration employed and the nature of their use in changing the structure of the film. Instead they seem seduced and transfixed by the promise of digital technology. They also seem to have, without any questioning, bought into Welles-Smith's narrative that the restoration work was needed and that it was successful. The first point is mainly in regards to the nature of the original soundtrack. Welles' lack of funds resulted in the film being shot over four years, across three continents and not always with the same actors. The soundtrack is a jumble of poorly recorded sound, out of sync dialogue, and with Welles at times dubbing in other actor's lines. Clearly Welles-Smith and her restoration team did not view this as a potential deficit that Welles creatively incorporated into his aesthetic strategy, but as merely a technical flaw due to his underfunded production that needed to be corrected. According to Welles-Smith, her father "thought the film was a less-than-perfect undertaking because of the lack of funds"⁴⁸. Further, she states "my father often had trouble with sound in Europe, having to post-dub the dialogue and so forth"⁴⁹. That the film critics reporting on the restoration adopted her denigratory view of the film's original soundtrack is apparent in the way three of them negatively compare it to a poorly dubbed

⁴⁷ Shannon, Jeff, "Magnificent Moor", *Seattle Times*, 15 May 1992: 24.

⁴⁸ Koltnow, Barry, "PERSPECTIVE Self-Doubts Plagued 'genius' Orson Welles", *Orange County Register*, 24 Apr. 1992: P.10.

⁴⁹ Elliot.

Japanese film^{50, 51, 52}. Others note that the soundtrack “had never been any good,” was “inconsistent, and hard to follow,”⁵³ “jumbled”⁵⁴ and “never impressive”⁵⁵. Whether any of them had actually seen the original version and had decided that for themselves and or were parroting Welles-Smith’s position is impossible to determine, but the fact that three of them repeated the same dismissive resemblance to an imagined Japanese film disappointingly favors the latter.

That almost all critics at the time agreed with Welles-Smith that the restoration was successful is patently obvious by their enthusiastic declarations of support. “Othello is now being reclaimed from the cinematic ashcan”⁵⁶. “Othello is a remarkable experiment rescued by modern technology”⁵⁷. “The re-issue of Othello by Castle Hill Productions is as much a celebration of cinema artistry as it is of film restoration”⁵⁸. Canby calls the film “expertly restored [and] should help to rewrite cinema history”⁵⁹. And according to Ebert “the restorers now claim that Othello looks and sounds better than it ever did before in its checkered history, even on the night when it won the Cannes festival. I'm sure they're correct”⁶⁰.

As previously mentioned there were at the time a few dissenting opinions. According to Dave Kehr the manipulations of the soundtrack make the new

⁵⁰ Yagoda.

⁵¹ Caro.

⁵² Anderson, John, "A Revived Version Of Welles' `Othello'", Newsday, 6 Mar. 1992, 75.

⁵³ Gelmis.

⁵⁴ Schaeffer.

⁵⁵ Carr, Jay.

⁵⁶ Schaeffer.

⁵⁷ Shannon.

⁵⁸ Hulbert, Roger, "Restored Othello Shows Welles' Cinematic Mastery", Sun Sentinel, 10 Apr. 1992, 5.

⁵⁹ Canby, "Critic's Notebook".

⁶⁰ Ebert.

version “more of an intervention than a restoration” but he forgives the restorers of their offenses in light of their reestablishing the film’s historic and visual importance⁶¹. Margaret Byrne of the National Moving Image Database is quoted, diplomatically but nonetheless sounding suspect, that the new soundtrack “certainly expands the definition of restoration”⁶². The main critical voice at the time came from Welles scholar and film critic Jonathan Rosenbaum. He bemoaned the lack of any insightful critical response to the alterations writing “practically no press account I’ve read has accurately or adequately described the work done [in the restoration]”⁶³. After complementing the reconstructive work carried out by Dawson and Welles-Smith purely on its technological merits, he blasts them for ignoring the film’s aesthetic and historic past by neglecting any archival research, disregarding Welles original 1952 version which premiered at Cannes (the version Welles-Smith used as the basis for the restoration was the 1955 release version cut to satisfy the American distributors) and making no attempt to contact the original composer or use his scores in the recreation of the music⁶⁴. He posits that the theoretical underpinning behind any restoration should not be that new technology allows the work to be updated to current technical and aesthetic standards, but should reflect the historical and technological times in which the film was made. In his opinion, to do otherwise results in the creation of a new work that is outside the original intentions of the

⁶¹ Kehr, Dave, “Welles made a masterpiece out of chaos in *Othello*”, *Chicago Tribune*, 10 Apr. 1992, D.

⁶² Yagoda.

⁶³ Rosenbaum, Jonathan, *Discovering Orson Welles*, Berkeley: University of California Press, 2007, 171.

⁶⁴ Rosenbaum, Jonathan, “Improving Mr. Welles”, *Sight and Sound*, Oct 1992, 30.

filmmaker⁶⁵. In an example from the restoration that connects the new work done on the soundtrack to his phenomenological response from viewing the film, Rosenbaum describes how the new stereo spread of the audio – ahistorically conforming to the updated Hollywood standard of dialogue in the center speaker with sound effects spread amongst the surround speakers – destroys a large degree of the mystery of the film⁶⁶.

While this is a much more respectful debate than the rancor between Carney and Rowlands, what emerges between the positions of Rosenbaum and Welles-Smith is a similar struggle over who has the authority to determine what kind of artist Welles was. Welles-Smith argued in 1992 that her father was frustrated by the technical restrictions that Othello's incredibly small budget forced on him. According to her opinion of the matter, Welles was a one of the preeminent Hollywood filmmakers whose misfortunes and exile from Tinseltown forced upon him an unwanted impoverished filmmaking style that, through its conspicuous technical deficiencies, deterred audiences from appreciating their brilliance and cinematic daring. So, her act of restoring the film was not intended to simply update it to new technical standards that conform to modern audience expectations, but to return the film to the stylistic environs of classical Hollywood cinema. She bemoaned the fact that her father was remembered only for Kane and her goal was to present Othello in a form, which she insisted he would

⁶⁵ This is interesting to consider in light of his involvement with the 1998 revision of Welles' Touch of Evil. Rosenbaum's likely response would be that they based their admittedly still subjective decisions on the expressed wishes of Welles and that they viewed the work not as an authoritative director's cut but as a form of collaboration that did indeed create a hybridized form of a new work. That their version ended being widely viewed as the official realization of Welles work would likely run counter to the original goals of the project.

⁶⁶ Rosenbaum, Discovering, 173.

approve of⁶⁷, that would allow critics and audiences to expand their appreciation of Welles' wider oeuvre.

Rosenbaum would no doubt wholeheartedly agree that the critical and public understanding of Welles was restricted to a greatly limited and one-sided degree; that the myth of Welles' persona overshadowed the ability to see his films for their intrinsic artistic merit outside of the commonly accepted narrative of his post-Kane failures. However, for Rosenbaum the method for re-appreciating Welles and his work is not through forcing their very singular idiosyncrasies into a prescribed commercial shape, but through a form of film history and archival research that affords insight into the films as they are. In the specific case of Othello, what Welles-Smith viewed as its inferior soundtrack is to Rosenbaum a crucial facet of Welles filmmaking style. Rosenbaum writes "my own assumption is that Welles's aesthetic decisions are impossible to isolate from what he had to work with"⁶⁸. For Rosenbaum then, Welles was not an exiled artist working on the fringes of Hollywood who needs to be restored to his former status. Instead Rosenbaum conceives of Welles as a "subversive independent" whose non-traditional method of shooting Othello purposefully disregards the economic and structural institutions of Hollywood and places him in the realm of the cinematic avant-garde⁶⁹.

Both seem to have not just opposing ideological, aesthetic, and economic views of the "model image" – which according to Paolo Cherchi Usai is the impossible to attain, idealized, and evanescent original form of a film – of Othello,

⁶⁷ Caro

⁶⁸ Rosenbaum, Discovering, 171.

⁶⁹ Rosenbaum, "Improving", 28-29.

but irreconcilable opinions of the idealized model filmmaker they each ascribe to Welles. Their ability to assign and promote their image of Welles flows from the authority they have to do so. For Welles-Smith this authority originates genetically in her status as a family member who knew him and legally in the rights he assigned to her in his will. Rosenbaum's authority results from the degree his scholarship and intellectual acuity are accepted and respected in the intertwined fields of academic film history and a larger cinephile film culture. While his was originally the more tenuous, over time his viewpoint has become the more dominant. This was due as much to Welles-Smith success in promoting Othello as in her later contentious legal actions.

As mentioned earlier, the vast majority of the press in 1992 was in support of Welles-Smith and her restoration methods. Inspired by the restoration, in his 1992 review of Othello Corliss called for a revival and restoration of Welles other under seen films⁷⁰. Indeed, up through the 1998 revision of Touch of Evil there was a minor cottage industry of Wellesian rereleases and re-imaginings of his work, which was strongly induced by the critical and financial success of the restored Othello⁷¹. This had the desired effect of Welles-Smith to greatly broaden the view and conception of Welles, but perhaps not unsurprisingly into one parallel to Rosenbaum's.

On the negative side, Welles-Smith's spurious lawsuits, with their intent on obstructing access to her father's films, have clouded current opinion of her work

⁷⁰ Corliss.

⁷¹ Axmaker, Sean, "All is good and Welles: It's time: 1998 belonged to Orson", Seattle Weekly, 23 Dec. 1998.

of Othello⁷². In distinction to the generally positive view of the restoration in 1992, the common opinion now is that was an inartful and disrespectful act of transformation⁷³. Further, it is difficult to rationally discuss the methods of her restoration work without objecting to her later actions. The situation would likely be ameliorated if Welles-Smith allowed access to the original pre-restored version of Othello, suggesting that audiences and critics forgive egregious tampering if the “original” is still available in some form.

In his 1999 book Orson Welles, Shakespeare, and Popular Culture, considered by Rosenbaum the essential text on the filmmaker’s artistic relationship with the playwright, Michael Anderegg discusses the restoration of Othello in a similar though distinctly more doctrinaire manner than Rosenbaum. For Anderegg “to term the project authorized by Beatrice Welles-Smith as a “restoration” is to make nonsense of the word” since the point of restoring an artwork is “to bring [it] back to some originary point – itself, of course, an extremely dubious concept.” While he accepts that any act of restoration is “inevitably controversial” he draws a very sharp distinction between one that, like Lawrence of Arabia, involves the input and cooperation of the creators and one like Welles-Smith’s version of Othello, “with Welles dead, with none of the original artists consulted, with Welles’s own intentions uncertain, and with only a

⁷² It’s useful here to compare current opinions on the restoration of Othello with the 1996 Katz and Harris restoration of Vertigo. Both restorations utilized new soundtracks that subtly but definitely affected the aesthetics of the films thereby stretching the definition of what a restoration is. While there are certainly criticisms of both, those towards Katz and Harris’s work are measured and respectful. The barbs directed towards Welles-Smith affect a level of opprobrium that is intensely personal.

⁷³ Some of this change might equally be attributed to a greater sensitivity to the art of preservation, though the acceptance of how films are currently digitally scrubbed clean and the regularity with which mono prints are re-mixed to 5.1 audio for DVD release somewhat tempers that possibility.

theoretical, not a material, original to go back to”⁷⁴. While his stance is ideologically rigorous and pure to accept it unreservedly complicates the impulse to preserve and restore. Even more, conceptually speaking it practically negates the validity of restoring artworks without the artist’s involvement.

The element of his dictate that is valuable to the field of moving image preservation and should be more widely considered is that of the artist’s “own intentions”. Absent the artist’s direct involvement, Anderegg is correct that this is a necessary component in a faithful preservation project. One useful tool for gathering these intentions are artist interviews that address issues of preservation such as the transformation of the work necessitated by restoration and migration to new formats. Miwa Yokoyama in her study on the subject finds that it’s only beginning to be utilized in art museums⁷⁵, which suggests that it should be widely institutionalized in museums and adopted in other moving image archives.

In the absence of artist interviews, another source for the artist’s intentions is the “interested heir of the artist” as expressed in the quote at the beginning. While the two examples given so far were adversarial there are examples where the heir or estate responsibly direct the activities of preservation and access that would normally be undertaken by an archive or museum. These estate driven concerns can have similarities to the concept of the accidental archive where the heir is forced to oversee a collection that is otherwise unwanted or would be

⁷⁴ Anderegg, Michael A., *Orson Welles, Shakespeare, and Popular Culture*, New York: Columbia University Press, 1999.

⁷⁵ Yokoyama, Miwa, *Capturing the Artist Interview: Interview Methodologies and Resources for Documenting and Preserving Time-Based Media Art*, NYU MIAP thesis, 7 May 2008, 43.

dispersed. Or, they can be created in conjunction with the artist during their lifetime. Usually there is at least some form of beneficial cooperation between these estates and archives and museums. They are able to direct research, be involved in exhibitions and supervise preservation work. Undoubtedly, the heirs have a vested interest in maintaining their conception of artist, or what The New York Times in an article on the Martin Luther King estate calls “preserving, protecting and insuring” the artist’s reputation⁷⁶. Ideally, this becomes a negotiation instead of a conflict where the heir’s involvement in a project incorporates an informed version of the artist’s intention for the benefit of the curator/archivist and an editorial role that protects the artist’s integrity according to the heir’s requirement.

Robert Beavers work with the Temenos Archive is the archetype of this form of estate driven preservation. Beavers and his partner Gregory Markopoulos formed Temenos as an archive to collect, preserve and present both of their films. The concept came to them in the early 1970s when, disenchanted with the nature of avant-garde screenings, they pulled their films from distribution. The idea was to create an organization that would, according to Beavers be “in harmony with the form of the films and a projection event that also would be distinctly appropriate for this work.” The ultimate realization of this is the outdoor screenings they organized on the Greek Isle of Temenos, and which Beavers continues to present “at great intervals”. After Markopoulos’ death Beavers has balanced working to preserve the more than 100 films of

⁷⁶ Barboza, David, “The Business of ‘preserving, protecting and insuring’ the legacy of Martin Luther King J”, The New York Times, 1 Apr. 1996.

Markopoulos with continuing to make his own films. The fact that Beavers is an important filmmaker himself and that the two worked together closely for years gives him an insight into Markopoulos' work that a researcher, like Rosenbaum or Carney and however astute and knowledgeable, could never replicate.

To achieve his goals of preserving their films Beavers has set up two non-profit organizations – one in Zurich where the films are archived and one in New York City. The work is supported through grants from foundations and private donations. The films are stored in Zurich in a temperature and humidity controlled environment. Beavers works with labs such as Cineric for preservation and has a relationship with the Österreichisches Filmmuseum through their purchase of the early films of Beavers and Markopoulos. Beavers is interested in working closer with archivists with technical expertise in preservation and in cultivating the relationship with the Filmmuseum.

In terms of access to the films they are, as mentioned, screened irregularly but ideally in the summer out door screenings in Temenos. He also puts on screenings in Zurich and works with universities, museums, and cinemathèques for individual showings. For access to Markopoulos' papers, researchers usually contact Beavers through the website and if they need to visit the archive in Zurich, he attempts to help them out by finding them a place to stay during their research visit. Beavers has also began putting up scans of Markopoulos' unpublished writings on the website⁷⁷.

⁷⁷ Beavers, Robert, E-mail Interview, 3 Dec. 2008.

Gary Morris in his article on Markopoulos discusses how the filmmaker “vanishe[d] entirely from the cultural landscape” as a result of his own actions⁷⁸ – e.g. removing his films from distribution and insisting that P. Adams Sitney remove him from the second edition of Visionary Film. The fact that it was based on Markopoulos and Beavers’ aesthetic decisions in regards to how they wanted their films shown and that this decision continues to inform how Beavers preserves the work is an instructive example of the methodology of the restoration work flowing from the artists’ intention. In discussing his work with Temenos Beavers states that “the key point is, the projection space and the preservation of the work should have the same form as the film. It’s a matter of preserving this work because no one else will preserve it in the manner we have to.”⁷⁹ This is born out in Markopoulos’ last work, Eniaios. Over 80 hours long most of it was left unprinted at the time of Markopoulos’ death and Beavers has been working on it for years, showing reels as they are completed at Temenos. The film is a reworking, re-editing and encapsulation of Markopoulos’ previous film work. Beaver’s work with the archive is a direct outgrowth of the aesthetic and archival concerns of the work in the collection.

Unlike Beavers who had numerous talks about creating Temenos with Markopoulos, Gordon Matta-Clark’s death was too sudden for him to leave any such edicts and directions with his widow, Jane Crawford. His papers and artworks were too disorganized for anyone else to take them and at the time he was not as regarded as highly in the art world as he is now. This left the

⁷⁸ Morris, Gary, “Gregory Markopoulos: Seconds in Eternity”, Bright Lights Film Journal, Nov. 1997.

⁷⁹ Halter, Ed, “Sacred Grove: Into the Vaults”, The Village Voice, 11 Feb. 2003.

responsibility for the collection with Crawford and it included sculptures, photos, papers, films and videos. Initially, she had no financial help from the outside, but Mary Jane Jacobs, who curated the first major retrospective of Matta-Clark's work at the Museum of Contemporary Art, assisted in sorting through and assessing the collection. After the collection was organized Crawford decided to keep it because of complaints she had heard about museums not giving other collections donated to them the attention and work they required and were unsupportive of researchers interested in the work. Until Crawford donated the archive to the Canadian Centre for Architecture in Montreal in 2002 researchers had to be vetted by her. They then had to come to her house where the collection was stored and Crawford had to act as the archivist and as an object of research.

Matta-Clark's moving image pieces function as a crucial documentation of his anarchitecture work (none of which survive on their own) and as works of arts themselves. Crawford recognized their importance and with her second husband – they also make documentary films together – set about preserving the moving image work and making it available. Mostly this included transferring them from their original small gauge film stock or obsolete video formats to current video formats that they distributed through Electronics Art Intermix⁸⁰. Not surprisingly considering Matta-Clark's art of disassemblage and recombination of disrepair, Crawford was forced to deal with prints that posed a difficulty for preservation. For his film Substrait she “discovered that Gordon had edited his dailies the way he made his photographs, in a kind of collage of different media. He glued

⁸⁰ Owens, Gwendolyn, E-mail Interview, 7 Dec. 2008.

single-perforated film stock to double-perforated, and magnetic soundtrack stock to optical. Although this mixed-media reel could not be projected, as an object it was a thing of beauty”⁸¹. An extreme example perhaps, but many moving image archivists, especially those working with mixed media and new technologies deal with works that provide these sorts of difficulties. Dealing with an heir who has an intimate knowledge of the artist’s intention can offer vital insights to these thorny issues.

The art and experimental film worlds can be notoriously snarky and competitive, so undoubtedly Beavers and Crawford’s choices on preservation and access of the work in their charge have caused displeasure with someone. It is important to state however, that this will be true with any archivist or curator’s work – it’s the by-product of having to make decisions for the long term survival of the work which impacts the form in which people experience it. The purpose in examining the work of Beavers and Crawford is to highlight the ways the preservation should be crucially informed by the aesthetic of the artist and the importance of collaboration between estates and archives/museums.

It’s not by chance that this article begins with a quote that locates the position of estates in the new copyright environment. The Copyright Term Extension Act’s lengthening of the copyright protection by an additional two decades from the previous 50 past the artist’s death greatly increases the estates’ legal control over the works entrusted to them. Considering the trend in

⁸¹ Crawford, Jane, “Twenty Adventures”, City Slivers and Fresh Kills: The Films of Gordon Matta-Clark, Ed. Steven Jenkins, San Francisco: San Francisco Cinematheque, 2004.

moving image archives collecting more non-corporate works such as home movies, amateur, and experimental films, this is an issue that will only get more complicated. It is incumbent on both archivists and estates not to get stuck in struggles that drain their limited symbolic capital but instead construct a policy of preservation that emanates from the artist's work and ultimately provides for it.

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