

JR a monumental artist

by Jessica Giraud

Public walls, private work ?

In the strict legal sense, the work of JR is unusual. Its medium is public structures; particularly riverbank walls and the facade of the Louis Philippe bridge. It spontaneously begs the question regarding how the artist was able to plaster such large posters on public structures unbeknownst to the authorities. The question could as well be formulated: how is it possible to appropriate a part of urban property, which by its essence belongs to everyone, to affix a work, property of one person, to it? Alternatively, how will this work evolve with respect to copyright, notably the right to preserve the integrity of the work?

Unauthorized posting, violation ?

JR's methods present an opportunity to recall that in the first place no one has the right in principle to modify the aspects of a structure belonging to the State or collective territories, notably a commune, by affixing works on walls without authorization. Unauthorized posting is a violation which is justifiably punished under the rubric of public order, with respect to public health or urban aesthetics. The solution is also well anchored in French case law and comparative law. To be noted is that the notion of public order is progressive and that it allows in certain cases, to limit the exercise of another liberty, such as in this case artistic creativity. Generally speaking, the competition between the collective public interest and the private interest of the artist is most often decided by the largest class; the art adapting poorly to the common laws.

However, communal administrative authorities prove that an enlarging opening of the minds with respect to contemporary artistic creation, making from the aesthetic a concept likewise progressive. One will remember here the packaging of Pont-Neuf by Christo. Women are Heroes attests to this and beautiful artistic interventions in the city will be reaffirmed.

With respect to Women are Heroes, JR obtained local authorization, granted by the 4th arrondissement of Paris city hall. Such was not the case during the artist's exposition in Rio's oldest shantytown (favela). Each national legal system has its particularities. Assuming that JR had not received the prior authorization from the French authorities for his exposition, he would have been in at odds with the law.

Which moral right for the artist?

Moreover, the question remains as to artist's right to his work. In accordance with article L 122 of the Intellectual Property Code (CPI), each attack made against the work violates the artist's moral right regarding respecting the integrity of his work. But how does the alteration of the work due to rain or graffiti affect this right? The artist who notices a degradation of his work

would not be within his rights to legitimately request settlement from the administration accusing them of not having known to put in adequate safeguards to assure the works preservation? Unless if these “alterations” form a part of its process. Yet, very justifiably, JR totally incorporates these unknowns, considering them as all that is part of the adventure. One will note therefore all of the particularity of JR's work which makes from his work, a work in perpetual evolution.

Ownership of the work vs. ownership of the medium

Finally, the question of ownership of the work can be raised. The work being affixed on a public structure, does it become by accession property of the commune? Saying that the artist loses a part of his literary and artistic property rights when he does not choose as a medium movable property, a material object without roots to the ground (taking from the first division of Civil Code article 515)? The solution is found this time in article L 111-3 of the Intellectual Property Code.

Contrary to Roman law which attributed the property rights of a drawing to he who supplied the paper, article L. 111-3 of the CPI distinguishes on one had the work as an immaterial object and, on the other hand by its medium, material object. The work is not a collage hung on the riverbank of the Seine, but the idea behind the collage for which the production is but a materialized form of the work. In other words, under the law the protected work is not the vinyl paper that anyone can “tag” but rather the artist's original idea which preceded the collage. Irrelevant then that the materialized work is affixed to a public structure, the artist, in principle, does not lose any portion of the moral rights on one hand (interminable rights) nor those property rights on the other hand which he holds in his creation. By exception, it is possible that he alienates his property rights, that is to say the right to reproduce and represent the work, if the elements of the exposition are part of an exclusive license granted to a third party, notably the City of Paris with respect to public order. However, the transfer of his rights would be consensual and not realized despite the will of JR.

Reassuring him however, even after their disappearance from the riverbank of the Seine, the elements composing Women are Heroes will still belong to JR, such that he is not excluded from seeing them reappear another day... In the meantime, the exposition continues in other capitals and should end 8 March 2010 in Geneva in honor of the international day of the woman...

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