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## What's So New about the “New” Theory of Photography?

Over the last decade, a paradigm shift has been gathering pace in the philosophy of photography. Against the background of an account that has dominated debates for over four decades, a new way of conceptualizing photography has begun to emerge. Call the two views “orthodox” and “new” theory respectively. What makes the new theory new is how it marks the difference between photography and other forms of image-making, notably making images by hand. Rather than being differentiated by the automaticity of its process, the mechanical nature of its apparatus, or the natural counterfactual dependence of the resulting images on their sources, photographic imaging is identified by whether or not it implicates an event of recording information from a light image in its causal history. What matters, as term “photography” itself implies, is whether light is responsible for the formation of the image. Given this, one might wonder how new the new theory can be.

To assess this, one needs a grip on the old. Orthodoxy’s assumptions are as old as photography itself; indeed, they are largely a formalization of folk wisdom as it has developed around photography. In its more philosophical form, Orthodoxy’s roots can be traced to Stanley Cavell’s appeal to André Bazin’s notion of “automatism”—the claim that photographic images are generated *automatically* “by a non-living agent [...] without the creative intervention of man”<sup>1</sup>—to underwrite a theory of film. This claim, which counter-poses the mechanical production of photographs to the

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<sup>1</sup> André Bazin “The Ontology of the Photographic Image,” *What is Cinema? Vol.1* (Berkeley: University of California Press, 1967), p.13. Stanley Cavell, “Sights and Sounds,” *The World Viewed* (Cambridge: Harvard University Press, 1979).

agential creation of paintings, is the root of “mind independence thesis” that grounds of orthodox theories of photography in their modern form.

Where Bazin and Cavell considered photography chiefly as a propaedeutic to theories of film, it first became a focus of philosophical inquiry in its own right in articles by Roger Scruton and Kendall Walton from the early 1980s.<sup>2</sup> Though they share various assumptions about the mind-independence of photographic depiction, their respective theories have very different upshots. Notably, Scruton’s premises lead to scepticism about the possibility of photographic art, and Walton’s do not. For this reason, they may be seen as bedrock for “sceptical” and “non-sceptical” orthodoxy, respectively; though I focus on the former here, I return to some challenges the latter may yet present proponents of new theory in conclusion.

Scruton’s scepticism about photography’s artistic standing has provoked considerable debate. New theory is part of this debate, arising from dissatisfaction with responses that try to block Scruton’s conclusions, while allowing his underlying assumptions about photography to pass unchallenged. Such responses tend to accept Scruton’s characterisation of the “ideal” photograph, but argue that this need not be incompatible with its status as art; what matters is how a given photographer employs the causal and mechanical processes at her disposal. New theorists do not dispute this, but think it overlooks a more fundamental objection that can be raised of sceptical and non-sceptical orthodoxy alike.

Scruton holds that photographs cannot be representational art because this requires the complete and manifest expression of a thought about what is depicted.<sup>3</sup>

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<sup>2</sup> Roger Scruton, “Photography and Representation,” *Critical Inquiry* 7:3 (Spring 1981), 577-603; Kendall Walton, “Transparent Pictures: On the Nature of Photographic Realism,” *Critical Inquiry* 11:2 (Dec 1984), 246-277.

<sup>3</sup> Scruton, “Photography and Representation,” pp. 579-581, p. 589.

The claim that this is beyond photography's competence follows from Scruton's distinction between "ideal" photograph and painting: the former has a strictly causal relation to its objects, the latter a strictly intentional relation; as a corollary, the former is transparent to its objects, the latter to its makers' thoughts and intentions.<sup>4</sup> This restricts the former to showing how a particular object or scene looked at a particular moment in time, but allows the latter to communicate the artist's thoughts about that object or scene, through the way she depicts it. In sum: photographs only have objects (something they are of); paintings can also have subjects (something they are about).

But why can the photographer not express her thoughts about the object or scene depicted through her decisions about lighting, framing, point of view and other camera variables? Scruton will reply that in so far as a photograph remains pure its appearance will, of necessity, be determined by that of its objects: whatever interest we take in such a photograph will be an interest that we could have taken in its objects seen directly.<sup>5</sup> Photographs reduce to a kind of ostension: like holding a frame up to some scene, they draw our attention to some bit of the world, but are not themselves the object of our attention.<sup>6</sup> The conclusion is obvious: if taking an aesthetic interest in a photograph *requires* seeing it as the complete expression of a thought about what it depicts, but standing in a purely causal relation to what it depicts *precludes* so seeing it, photographs cannot be objects of aesthetic interest.

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<sup>4</sup> Ibid, pp. 577-8, pp. 587-590.

<sup>5</sup> Ibid, pp. 585-6, p. 588. This claim is false: it ignores the profound effect that decisions about camera variables can have on the appearance of photographic images, such that we may take an interest in that object or scene *as it appears through* the photograph that we could not have taken in it that object seen directly. Dominic McIver Lopes, "The Aesthetics of Photographic Transparency," *Mind* 112 (July, 2003), 335-348.

<sup>6</sup> Scruton, "Photography and Representation, p. 589, pp. 595-6.

So what? Why not just accept that one cannot take an aesthetic interest in the ideal case? We can, and often do, take such an interest in non-ideal cases, and these comprise the vast majority of actual photographs, by Scruton's own admission. The problem with deflationary responses is that they unwittingly abet aesthetic scepticism about photography. Whatever enables us to take an aesthetic interest in the non-ideal cases, it cannot be the fact that they are photographs. They must be art *despite*, rather than (at least in part) *by virtue* of being photographs: were this not true, we could take an aesthetic interest in the ideal case; but this is what deflationary responses concede cannot be done. What other response are available? Scruton is the first to grant that his ideals are "logical fictions:" most actual paintings and photographs depart from them to some degree.<sup>7</sup> For Scruton this does not matter, because his ideals nonetheless capture the essential nature of photography and painting—at least in their pure forms. If they did not, there would be little point in his demonstration, so this claim needs to be true for Scruton's argument to go through.

But many worries can be raised about these ideals. Scruton assumes without argument that painting and photography have distinct, non-overlapping natures, when this is something his account ought to establish, if it is not to beg the question. In assuming this he thereby also assumes that painting and photography have essential natures at all, overlapping or otherwise. But it is far from clear that there are sets of non-disjunctive conditions that all and only paintings or photographs fulfil. Finally, the account assumes that causality and intentionality are zero sum terms that parse cleanly between photographic and non-photographic images. Not only is this an implausible view of painting and photography; were it true, it would make a mystery of intentional action altogether. Intentional action must be manifest in the causal

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<sup>7</sup> Ibid., p. 578.

process, not somewhere outside it. But my goal is not to press such worries here.<sup>8</sup> The issue here is *why* Scruton holds the view of photography that he does, and this turns on various assumptions about how photography works that new theorists do not share.

So how does photography work? New theory's answer can be traced back to Patrick Maynard's conception of photography as a "branching family of technologies, with different uses, whose common stem is simply the physical marking of surfaces through the agency of light and other radiations."<sup>9</sup> In focusing on the photographic process rather than product, Maynard is rejecting any account that begins by trying to isolate what is special about the relation between a photograph and what it is of. For this builds in, without argument, a referential relation that the theory then has to make sense of. Scruton's account is a case in point. What makes a process photographic on Maynard's account is, by contrast, the role of light in the creation of the image itself. Because he does not assume at the outset that all photographs have referents, only some of the resulting markings need be pictures, and only some of those pictures need be of anything. As a result Maynard's account builds in no ground-level commitments to realism, resemblance or reference. In this it was highly distinctive.

Building on Maynard's redirection of attention from product to process, but focusing on the implications of no longer treating this process as a black box, Dawn Wilson (née Phillips) targets the assumption, common to folk theory and orthodoxy alike, that photographs come into existence upon exposure. This is not true. In the case of analogue photography, exposing the film to light creates a latent image, but the film needs to be processed before that image becomes visible and, if the film is negative or colour reversal, it needs to be printed to be appreciated. In the case of

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<sup>8</sup> AUTHOR REF 1 (chapt 2), and AUTHOR REF 2 (2014).

<sup>9</sup> Patrick Maynard, *The Engine of Visualization: Thinking through Photography* (Ithica: Cornell University Press, 1997), p.3.

digital photography, exposing the camera's CCD sensor to light causes the capacitors that comprise its surface to transmit electrical charges, but the charged or uncharged state of those capacitors not only has to be recorded as binary code; the resulting code has to be fed through several stages of digital processing before it generates a visible image. This process, though too quick to be humanly detected, nonetheless consists of stages that can be distinguished, both functionally and conceptually: output the same code through a different set of algorithms and it need not even generate an image file. Processed differently, it might be output as sound, and this shows we may distinguish between the information stored and the algorithms required to output it in visual form. In neither the analogue nor the digital case, then, are photographs generated simply by exposing a sensitive surface to light. For reasons of this kind, Wilson recommends that we replace the standard theory:

- i. A "pro-filmic" event of some kind takes place before the camera;
- ii. The camera takes a photograph of the pro-filmic event;
- iii. Copies of that photograph (taken to exist at stage [ii.]) are printed;
- iv. The appearance of the photograph allows the viewer to learn about the appearance of the pro-filmic event.

With a revised account along the following lines:

- i. A changing light image, generated by light sources and objects, forms in real time on the film plane (or CCD sensor);
- ii. A "photographic event" occurs when information from that light image is recorded (though no photograph yet exists);
- iii. The information stored undergoes a process (or processes) to create a visual image (the "photograph") or multiple copies thereof;

- iv. The appearance of this photograph allows the viewer to learn about the nature of the photographic event.<sup>10</sup>

On this account, “photography” is an array of practices for creating, storing, and displaying photographs; the “photographic process” is a multi-stage operation that includes a photographic event and processes for the production of photographic images; and the “photographic event” is the recording of information from a light image. So understood, a “photograph” is a visual image, the causal history of which necessarily implicates a photographic event.

How does this help? Take the light image. This comprises light emitted or reflected by objects in the scene and focused by a series of lenses onto the camera’s film plane. Changes in the light image depend, counterfactually, on changes in the scene and take place in real time. Unlike a light image, the photograph does not remain counterfactually dependent on the scene it depicts over time. It may be raining on the Eiffel Tower today, misty and overcast tomorrow, but the sun will continue to shine in your holiday snaps regardless. Not so the light image: turn a room facing the Tower into a primitive pinhole camera by blacking out its windows and the image projected onto its far wall will continue to track the weather so long as sufficient light penetrates the gloom. So far, so obvious—until one realizes that, so described, the light image is much closer to Scruton’s standard analogues for photography (mirrors, windows and frames) than the latter are to photography itself. The light image really does stand in a “merely causal” relation to the scene it resembles. In effect, Scruton conflates a way-stage of the photographic process with its product:

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<sup>10</sup> Dawn Phillips, “Photography and Causation: Responding to Scruton’s Scepticism,” *British Journal of Aesthetics*, 49:4 (Oct 2009), pp. 336-8.



[I]n Scruton's sense, [the light image] is in broadly the same category as mirror images and the "image" produced by holding up an empty frame. And that is my whole point. A light image [...] stands in a merely causal relation to that scene [...] Scruton's ideal photograph is nothing more than an image of this kind.<sup>11</sup>

On Wilson's account, by contrast, neither the formation nor the recording of a light image are sufficient to generate a photograph, which means that any subsequent stage of image processing without which there could be no visible image must be internal to photography. If one cannot produce a photograph *without* such means, they cannot be incidental to "photography proper." Consider standard darkroom practices: are these strictly photographic? Scruton will want say no. New theory shows that he can only do so on the basis of a theory that does not suffice to secure a visible image.<sup>12</sup> Making prints in a darkroom by non-automatic means often involves selective manipulation of light, typically to compensate for over or under exposure in the negative. It has also frequently involved various forms of combination printing, and more recently digital montage, either to compensate for the insensitivity of early photographic materials or to circumvent the limits that various optics continue to place on what can be resolved in a single exposure. And it has involved the use of all these methods, singly or in combination, for more inventive purposes. Which, if any, are strictly photographic?

Suppose adjustments to compensate for poor exposure are allowed through. There will be worries about the ad hoc nature of such manoeuvres, but set those aside here: the purely inventive use of such methods is sure to be ruled out. It bears asking why. Composite printing has been a part of photography from the outset; on what non-stipulative grounds can it be ruled out, contrary to first order practice? If it cannot,

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<sup>11</sup> Ibid., p. 337.

<sup>12</sup> Analogous arguments can be made in the case of digital processing.

this suggests the starting point for a more robust response to the aesthetic sceptic. Building on Wilson's account of the photographic process, Paloma Atencia-Linares argues that even photographs combined to create fictional scenes may still count as strictly photographic—so long as they respect certain constraints.<sup>13</sup> What makes this response “robust” is that Scruton himself takes fictional competence to be a significant test of something's standing as a representational art. Depictions of ficta, according to Scruton, encourage us to put our everyday practical concerns out of gear, enabling us to take up a suitably disinterested (and hence aesthetic) attitude towards the contents depicted. There are obvious reasons to be sceptical here.<sup>14</sup> But a further, and arguably more plausible, implication of Scruton's view is that, since what is seen in images of ficta need never have existed, we cannot understand such images without understanding them as an expression of their maker's thoughts about what is depicted; depictions of ficta, unlike strictly photographic images, are intentional by definition.<sup>15</sup>

Maintaining that images can be both fictional and strictly photographic is controversial for obvious reasons: given that fictional entities cannot interact causally with real light sensitive media, many will dispute that the resulting images *could* be strictly photographic. But this is because orthodoxy and folk theory alike assume that, in the standard (non-manipulated) case, photographic images document how things stood at a particular place and time. Composite images, by contrast, are not (mind-independently) counterfactually dependent on a single spatiotemporally continuous scene. To this Atencia-Linares will reply: one cannot rule out such cases by assuming

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<sup>13</sup> Paloma Atencia-Linares, “Fiction, Nonfiction and Deceptive Pictorial Representation,” *The Journal of Aesthetics and Art Criticism*, 70:1 (Winter 2012), 19-30.

<sup>14</sup> Scruton, “Photography and Representation,” pp. 585-6, pp. 588-9, pp. 591-2. Pornographic animation offers reason to doubt that being fictional suffices to disengage practical interests.

<sup>15</sup> *Ibid.*, p. 589.

photography's fictional incompetence, since that is precisely what such examples are designed to put pressure on. So one cannot reason:  $x$  is picture of ficta, photographs *cannot* depict ficta, so  $x$  cannot be a photograph.

Against any response that begs the question in this way, Atencia Linares stresses the respects in which even photographs of ficta partake of what is typically true of photographs: they are traces of real objects, and we need to grasp this fact in order to appreciate them. Granted: such images are no longer mind-independently, counterfactually dependent on how things stood at a particular place and time, but the proposal is to give this up as a way of conceiving photography tout court. The fact that *individual* photographs presuppose intentionality is consistent with photographs and paintings *generally* differing in this regard. So the revisionist proposal, at least in this weak form, only conflicts with the implausibly strong view that photographs are always belief-independent, and not with the more reasonable view that they are typically so.

To claim that photographs of ficta may be strictly photographic is to claim, in Scrutonian terms, that photography can (sometimes) be a representational art, because even in the ideal case it can (sometimes) represent ficta. For Scruton, this will be to draw the boundaries of photography far too wide. For more permissive new theorists, it will not yet be to draw them wide enough. Take the constraints Atencia-Linares imposes on what may count as "strictly photographic:"

Photographic means: any action or technique performed or taking place during the production of an image, including the stages of transduction and storing, that consists solely in the exploitation, manipulation, or control of the incidence of light onto, and its interaction with, a photosensitive material.<sup>16</sup>

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<sup>16</sup> Atencia-Linares, "Fiction, Nonfiction and Deceptive Pictorial Representation," p. 22.

By “transduction,” Atencia-Linares means the processes through which a latent image becomes patent. By “storing,” she means the processes required to “fix” the image thereby generated. Only downstream of both do we get a photograph: absent the first we do not have anything to appreciate visually; absent the second we do not have anything that will not fog on further exposure to light.<sup>17</sup>

As per Wilson, no photograph exists solely by virtue of a photographic event, since all require further processing to make the latent image visible. By singling out control of light’s interaction with photosensitive materials, however, Atencia-Linares seems only to acknowledge a subset of such processes. Suppose the photographer wants to hold off exposure of some part of an image while printing. If she does so by cutting a mask to occlude part of the negative, or uses a baffle, including her hands (“dodging”), this will count as making an image by strictly photographic means, since both are ways of controlling the interaction of light with a photosensitive material. But were a more expedient means to paint a masking agent directly onto the negative’s emulsion, it is not clear whether this would count, since is hard to distinguish the latter from painterly retouching, and that would be strictly off-limits to proponents of the strictly photographic.

Perhaps such cases are inconclusive; so consider a clearer case. Another, entirely standard, way of achieving the same result that this account rules out is selectively developing a print by holding some area of it in (or out) of the developer during development. This does not “consist solely in the exploitation, manipulation, or control of the incidence of light onto, and its interaction with, a photosensitive material,” but it does involve something equally fundamental: control of the processes through which the chemical reaction of silver halides to light becomes visible. If the

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<sup>17</sup> Ibid., p. 21.

photographer allows light to pass through her hands so as to expose a particular area for longer (“burning in”) this counts as strictly photographic. But if a more expedient way to achieve the same end were to rub that bit of the print vigorously with a cotton bud during development, so as to accelerate the developer’s action by raising the local temperature of the print’s surface, this would not.

Such prohibitions arguably distinguish between photographic and non-photographic in arbitrary ways. (Analogue) photography involves a wide range of processes, including not only manipulation of light, but control of chemical reactions through use of accelerants, inhibiting agents and temperature. Is the photographer obliged to take the more circuitous route, should they want their work to count as pure? It is hard to see why they should. Such prescriptiveness is reminiscent of the Scrutonian strictures it is designed to outflank. Granted: Atencia-Linares locates the boundary of what is acceptable considerably further out, ruling more in. But that is a difference of degree rather than kind.

So consider a more permissive approach. Like Atencia-Linares, Dominic Lopes forgoes natural counterfactual dependency as a necessary condition of an image counting as photographic. Unlike Atencia-Linares, Lopes forgoes this in general, and not only for the odd exception that proves the more general rule. Were “belief independent feature tracking” what parses between photographs and hand-made images, then many drawings—including doodles, rubbings, tracings, and more or less automatic or mechanical drawings—should count as photographs.<sup>18</sup> Appealing to the non-conceptual content and sub-personal recognitional capacities mobilized by perception, Lopes argues that, as a kind of “applied recognition,” drawing often involves belief-independent feature tracking. It requires hand-eye coordination and

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<sup>18</sup> Lopes, *Understanding Pictures* (Oxford: Oxford University Press, 2004), chapter 9.

advanced motor skills, but need not continuously implicate concepts. And when it does not, drawing cannot be dependent upon beliefs, since beliefs entail concepts.<sup>19</sup>

What differentiates photography from drawing is not belief-independent feature tracking, but the fact that only some images are made using photographic technologies. The real question is: what makes an imaging technology photographic? Again one sees new theory's debt to Maynard: what makes a process photographic is that it implicates a photographic event. Darkroom techniques such as dodging and burning, double-exposure or use of multiple enlargers all implicate such events, as do the manipulation of hue, contrast, saturation and gradient mapping in digital photography. As such all are photographic—*irrespective* of whether they preserve belief-independence. On Lopes's preferred account:

[A]n item is a photograph if and only if it is an image that is a product of a photographic process, where a photographic process includes (1) a photographic event as well as (2) processes for the production of images.<sup>20</sup>

This definition consists of two independent clauses and their independence is crucial: because the first secures the distinction with non-photographic images, the second need no longer discharge this burden. This frees up the processes used to create photographic images to be anything photographers want them to be—so long as they

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<sup>19</sup> Lopes cites the moon-drawings from which Galileo learnt, by carefully reproducing the patterns of light and dark visible on the moon's surface through a telescope, that the moon was pitted rather than smooth. Lopes, "Pictorial Experience," in *Understanding Pictures*.

<sup>20</sup> Lopes, "Jetzt Sind Wir Alle Künstler," in *Fotographie: zwischen Inszenierung und Dokumentation*, eds. Julian Nida-Rümelin and Jakob Steinbrenner, Ostfildern: Hatje Cantz Verlag, 2012, p. 115. This definition is reworked in *Four Arts of Photography*: "a photograph is an image output by a mark-making process taking input from an electro-chemical event that records information from a light image of a pro-photographic scene." (p. 81) I prefer the parsimony of Lopes's original formulation.

continue to implicate such an event. Photography no longer need be belief-independent, nor requires a contrast class of belief-dependent, intentionally mediated images. From an orthodox perspective, this will be way too permissive. The obvious remedy is to build back in belief-independent feature tracking:

[A]n item is a photograph if and only if it is an image that is a product of (1) a photographic event and (2) processes for the production of images that (3) ensure belief-independent feature-tracking.

Restrictive revisionists, such as Atencia-Linares, and perhaps also what I will call “non-resolute” second-generation, orthodox theorists, will want to qualify this:<sup>21</sup>

[A]n item is a photograph if and only if it is an image that is a product of (1) a photographic event and (2) processes for the production of images that (3\*) *generally* ensure belief-independent feature-tracking.

Lopes might even agree. But from his perspective, the interesting question will be: what forces this concession? Whether (3) or (3\*) obtain will depend on the social institutions and practices that a given form of photography serves. Medical, scientific, diagnostic, forensic and legal practices are all “knowledge-oriented,” and this imposes *additional* constraints on legitimate uses of photography within those domains: chiefly, that they not encourage false beliefs about relevant matters of fact. But such restrictions are not *constitutive* of photography per se. Whether this response suffices to discharge the epistemic debts incurred by new theory is a serious question. Before broaching it, I want to raise several more specific worries for Lopes’s version of new theory: the problem of individuating photographs by means of photographic events;

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<sup>21</sup> I count Jonathan Cohen and Aaron Meskin, Robert Hopkins and Catharine Abell under this head. For a discussion see AUTHOR REF 1 (Chapt 3).

the problem of identifying photographs as photographs *of x*; and a more general concern about scope. Take these in turn.

According to new theory, we individuate photographs by counting photographic events: if you want to know how many photographs there are in an exhibition, determine how many photographic events they derive from.<sup>22</sup> Appearances can be misleading, or it may not be possible to tell; but that only shows that one can be wrong, or lack the required information, not that there is no answer to be had. But what if an image is the product of more than one such event? This does not only pertain to combination prints and digital montages. Most analogue photographs are products of at least two such events: one (or more) in camera, and one (or more) in the darkroom. Depending on which one individuates a photograph by, one will identify the photograph in question differently.

Take the 6600 rolls of unedited work that Garry Winogrand left on his early death. These included 4100 rolls of processed but “un-proofed” film (rolls Winogrand had yet to contact print), and 2500 rolls of unprocessed film, the contents of which he had never even seen. MOMA’s Director of Photography, John Szarkowski, oversaw their processing and proofing, but deemed few worthy of inclusion in Winogrand’s first posthumous retrospective in 1988. Winogrand’s next retrospective, 25 years later, comprised more than 300 images, of which almost half came from this previously unexplored trove: of the 400 images in the show’s catalogue, 164 derive from these 6600 unproofed and/or unprocessed rolls.<sup>23</sup>

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<sup>22</sup> In “Jetzt sind wir alle Künstler,” Lopes recommends counting photographs by counting photographic events.

<sup>23</sup> *Garry Winogrand*, curated by Leo Rubinfien, Erin O’Toole and Sarah Greenough (San Francisco Museum of Modern Art and Yale University Press, 2013).



The question to is obvious: to whom should these posthumously selected, printed and (in some cases) processed works be attributed? According to new theory, many did not exist at the time of Winogrand's death. This is true of any deriving from unprocessed rolls, and may also be true of those deriving from un-proofed rolls.<sup>24</sup> But if the works did not come into existence until after his death, can they be attributed to Winogrand? It seems natural to offer at least a qualified yes: who, if not Winogrand, should they be attributed to? Winogrand took them, and a competent judge should be able to identify them stylistically as late Winogrands. But since photographs do not exist prior to processing and printing according to the new theory, and any decisions concerning the latter will impact the images that result, we seem committed to saying no. It is the print, not the filmstrip or contact sheet, that is the focus of attention.

Perhaps this is too quick: what if processing and printing are carried out in accordance with conventions that Winogrand adhered to—assuming he adhered to any and they can be identified? Could we not then say that Winogrand executed these works remotely? This depends on whether one individuates photographs by means of their originating event or (any of) the subsequent photographic events responsible for the final image. On the former, photographs are individuated by initial exposure of the film to light; on the latter, by (say) exposure of the photographic paper. On the former, photographers turn out to be responsible for all the pictures standardly attributed to them, though this is incompatible with new theory in some cases; on the latter, some turn out to have been created after their supposed author's death, a result that will be unpalatable to many, but is consistent with new theory. As yet, it remains unclear how new theorists intend to resolve this.

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<sup>24</sup> That the film is black and white—so comprises negatives—is important: unlike positive (slide) film, the negative is not the focus of appreciation.

Next, consider the problem of identifying any particular photograph as a photograph *of x*. Given that belief-independent feature-tracking no longer places constraints on how photographs must look, what if anything constrains this? What is to stop the photographer applying one image-rendering process after another to an image that, because it originated in a photographic event, continues to count not only as a photograph, but perhaps also a photograph of what was before the camera? If nothing prevents this, then a photograph of the Eiffel Tower may be manipulated to the point of resembling the Taj Mahal. But what would it mean to identify such an image as “a photograph of the Eiffel Tower?”

This opens onto a more general worry about scope. Lopes’s theory rules in images that many would not class as photographs. Take Gerhard Richter’s *Betty* (1998) or *Lesende* (1994): while they might be mistaken for colour photographs in reproduction, paintings that take photographs as subject-matter or source material seems to be the most neutral description of such works. That is, it seems natural to categorize them as paintings *of or about* photographs, rather than photographs. As is well known, this is not how Richter sees them. Richter calls them “photo-paintings,” by which he means something much stronger than paintings of or about photographs, but a way of making photographs by painting:

I’m not trying to imitate a photograph; I’m trying to make one. And if I disregard the assumption that a photograph is a piece of paper exposed to light, then, I am practicing photography by other means: I’m not producing paintings that remind you of a photograph but producing photographs.<sup>25</sup>

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<sup>25</sup> Gerhard Richter, “Interview with Rolf Shön” in Richter, *The Daily Practice of Painting: Writings 1962–1993*, ed. Hans-Ulrich Obrist (London: Thames & Hudson, 1995), p. 73.

Lopes wants to take Richter at his word, and new theory provides what is needed. Given the independence of his two conditions, and the fact that both images derive from photographic sources, both will count as photographs for Lopes.<sup>26</sup> This will be enough to make many balk.<sup>27</sup> But the photographic look of such images arguably obscures just how counter-intuitive a result this is. To see this, one has to look away from images that so obviously resemble their photographic sources.

Imagine the following case. Using an opaque projector, Richter projects a postcard of Kölner Dom onto a canvas and sets about painting in the image. Almost finished, he begins to “blur” the image, by dragging solvent across its wet surface. Applying more solvent, but still not happy, he resorts to scraping away the image entirely or dragging fresh paint across its surface with an outsized silkscreen blade. The resulting image is a largely gray monochrome with residual traces of colour and some facture. Is it as a painting, a photograph, or both? It is made by applying oils to a stretched linen support, and can be situated within a history of reductive abstraction and the monochrome; but it also implicates a photographic event in its causal history. Like *Betty*, it originates in a photographic event to which further imaging processes have been applied. So described, there is little to distinguish between them. But if it is a photograph, what is it a photograph of? Can it still be described as photograph—let alone “a photograph of Kölner Dom”?

Lopes’s remarks about mark-making being guided by or under the control of information from a photographic event, or of photographs being “output by processes

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<sup>26</sup> In fact, for Lopes they will count as both photographs and paintings: paintings because Richter uses richly embodied mark-making, hand-eye coordination, and advanced motor skills; photographs because they implicate photographic events.

<sup>27</sup> See, for example, Catharine Abell, “The Epistemic Value of Photographs” in Abell and Katerina Bantinaki, *Philosophical Perspectives on Depiction* (Oxford: Oxford University Press, 2010), p. 84, p. 101.

where information in light images of pro-photographic scenes inputs into the making of visibly marked or differentiated surfaces” may be intended to address such worries.<sup>28</sup> But it is hard to be sure what they rule in or out: what constitutes sufficient control or guidance for something to count as a photograph on this account? Perhaps Lopes takes being under the control of information output from a photographic event to be a vague concept with fuzzy borders: if so, what counts in one instance need not generalize to others. Be that as it may, Lopes cannot appeal to belief-independence to rule an image in or out, without sliding back into orthodoxy. So as yet it seems he has offered no principled grounds for denying that this could be a “photograph of Kölner Dom” on his account.

Perhaps this is a bullet that Lopes is prepared to bite. He acknowledges that “nothing in this new theory [...] restricts how the light image is formed or how an artifactual image is finally rendered. [...] Since a photograph might also be rendered through Photo-shopping or drawing [...] there is potential for a massive loss of information from the pro-photographic scene.”<sup>29</sup> Discussing Wolfgang Tillmans, he grants that “the new theory does not require that photographic processing preserve most, or much, information recorded in the photographic event.”<sup>30</sup> Read carefully, however, such comments imply that a *total* loss information or control would rule an image out. If so, some explanation of what stops this slope extending all the way to Richter’s gray monochrome is required. Where would Lopes draw the line, and on what grounds?

One possibility would be impose some kind of “appreciative constraint” on what may count as a photograph *of x*. Absent special considerations in its favour, we

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<sup>28</sup> Lopes, *Four Arts of Photography*, p. 97.

<sup>29</sup> *Ibid.*, p. 109.

<sup>30</sup> *Ibid.*, pp. 123-4.

would not typically entertain a gray monochrome as a picture of Kölner Dom. Were it titled *Kölner Dom*, that would certainly give us pause. That aside, anything we would typically entertain as such would either have to resemble the cathedral sufficiently to permit a visual experience as of Kölner Dom, or allow us to see something that could be the cathedral in its surface. Unless the thinnest recognitional requirement is met, however, we are likely to reject—absent special considerations in its favor—the claim that the gray monochrome is a picture of Kölner Dom. The spirit of Lopes’s proposal may be that there is no reason to treat photography any differently. Perhaps we should say that once its photographic genesis no longer bears on its appreciation the canvas really is just a gray monochrome.

Asking whether this is true of our imaginary case is an interesting question, and one that seems to generate a dilemma: either the image is a photograph, and a total loss of information is possible after all; or it is not a photograph, and its photographic origins do not bear on its appreciation. The former is unpalatable, for reasons already considered, and the latter will be false in at least some cases: it can make a difference to appreciating two indiscernible monochromes if one knows that only one was created by over-painting a photorealist image. One need only imagine another monochrome derived from a photograph entitled *Auschwitz* to see this quite vividly.<sup>31</sup> Here the artist’s *refusal* to depict, by painting out the image, would clearly be relevant to the work’s appreciation.

This suggests a third possibility consistent with Lopes’s approach: the gray monochrome is no longer a photograph of Kölner Dom, but its photographic origins continue to bear, by virtue of its title, on its appreciation as a painting nonetheless. If

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<sup>31</sup> Compare the multiple red monochromes with which Arthur Danto opens *Transfiguration of the Commonplace* (Cambridge, Mass: Harvard University Press, 1981).

this is correct, Lopes's position turns out to be less permissive than either Richter's own, or Lopes himself is inclined to suggest. Immediately after claiming that he is making photographs, rather than paintings that imitate photographs, Richter remarks: "And, seen in this way, those of my paintings that have no photographic source (the abstracts, etc.) are also photographs."<sup>32</sup> This is not a remark that Lopes could endorse, because such images implicate no photographic event(s) in their causal history. And this is why, pace Richter, we *cannot* "disregard the assumption that a photograph is a piece of paper exposed to light." Indeed Lopes himself does not. But it is not clear how this helps with the case at hand. New theory offers a principled basis for denying that images that fail to implicate a photographic event can be photographs; but it does not clarify how we should treat images that *do* implicate such an event, but in which that event no longer seems to play any meaningful role—images in which the results of the photographic event can no longer be seen, and so presumably cannot bear on their appreciation.

One needs to tread carefully here. It is now widely accepted in debates about aesthetic properties and the definition of art that a work's "relational" properties or features, such as its relation to a theoretical background, historical context or means of generation, may play a significant role in how it should be appreciated, despite not being available to visual inspection.<sup>33</sup> There is no reason to suppose that this does not generalize to photographic art, and there is nothing in Lopes's theory of photography to prevent him from deferring to consensus on this point. It remains open to Lopes to

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<sup>32</sup> Gerhard Richter, "Interview with Rolf Shön," p. 73.

<sup>33</sup> The impetus was Arthur Danto's claim that "[t]o see something as art requires something the eye cannot descry—an atmosphere of artistic theory, a knowledge of the history of art: an artworld," "The Artworld," *Journal of Philosophy*, 61:19 (October, 1964), 571-584. On its legacy see Stephen Davies, *Definitions of Art* (Ithica: Cornell University Press, 1991).

respond that the fact that *Kölner Dom* derives from over-painting a photographically-derived image is as relevant to its appreciation as, say, the fact that a photorealist painting is painstakingly rendered by hand—despite the fact that this may not be visually discriminable in either case. So the mere fact that image-rendering processes can be applied to the point that what begins life as a photograph ceases to have even the most minimal (apparent) dependence on its source does not suffice to show that its photographic genesis may not bear on its appreciation as a painting nonetheless. More would need to be said to secure permissive variants of new theory in the teeth of such objections; but what has already been said suggests that the challenge will be as much to demarcate *when* as *what* a photograph is.

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We have seen what makes new theory new and how it relates to skeptical orthodoxy, and I have raised some worries for restrictive and permissive versions of the theory alike. A more basic challenge new theory must meet, if it is to be a serious competitor to orthodoxy, is to account within in its own terms for the epistemic privilege widely attributed to photographic images. This is orthodoxy's strong suit: it is *because* automatic recording processes bypass the fallible mental states of human beings that we tend to trust photographs, absent reason to do otherwise. Standard legal, forensic, scientific, medical and diagnostic uses of photography bear this out. For the same reason, orthodoxy has difficulty accommodating photographic art: if it is true that we look to art for just those traces of subjectivity that automatic recording brackets, the grounds on which orthodoxy explains photography's epistemic advantage would seem to entail its aesthetic disadvantage. But for just this reason, new theory will be in no

better shape, and arguably much worse shape, if it can make sense of the latter only by making a mystery of the former, given how large this looms in everyday uses of photography.

This is a serious question and one that only Lopes has attempted to address from within the new camp to date. Lopes's general strategy is to distinguish what is true of photography per se from what is true of more specific forms of photography serving diverse social institutions. Because some, but not all, of these institutions are "knowledge-oriented," only some impose strict information-preserving constraints on how the photographic practices that subtend them must be conducted. The Codes of Practice regulating press and crime-scene photography, which forbid the manipulation of images and build in ways of accurately establishing scale and colour, respectively, are a case in point.<sup>34</sup> Contrast these forms of photography, practiced under challenging, non-ideal conditions "out in the field," with scientific, astronomical or medical photography conducted under laboratory conditions that permit strict control of the channel conditions and other variables determining what may show up in the image. It is because these conditions can be closely monitored by skilled technicians that image-manipulation in these domains will often enhance, rather than undermine, an image's epistemic value—by making extraction of the target information easier.<sup>35</sup> Take the routine assignment of arbitrary colour values to different kinds of tissue or gases, to enable them to be more easily distinguished, in medical and astronomical contexts: were orthodoxy true, one would expect *any* intervention in the information channel between input and output to compromise an image's value and reliability as a source of information. Yet under laboratory conditions the reverse is often true.

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<sup>34</sup> "The Knowing Eye" in Lopes, *Four Arts of Photography*.

<sup>35</sup> Maynard, *The Engine of Visualization*, pp. 143-5.



That the converse tends to hold when channel conditions cannot be closely monitored may explain why the Associated Press felt the need to introduce a Code of Conduct expressly forbidding its members to alter images, just as digital technologies were becoming available to professional photographers.<sup>36</sup> But the fact that such codes exist, and have to be enforced on threat of professional sanction—press photographers found to have broken them may never work again<sup>37</sup>—shows as well as anything might that nothing *internal* to photography prevents their being flouted. Orthodoxy projects what is true of “knowledge-oriented” photography onto photography per se; it does so because it mistakes the institutional constraints governing the use of photography in certain domains for something intrinsic to the nature of photography per se. But while the former constitute a large and important subset of photographic practices, they do not exhaust the space of photographic possibility. An adequate theory of photography must make room for the kinds of photographic practices such uses exclude. This is a point on which one might expect significant orthodox push back, but to date it seems that at least second-generation orthodox theorists agree.<sup>38</sup>

A second marker for further work is new theory’s apparent reluctance to address Walton to date. Walton grounds his work on photography within a broader

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<sup>36</sup> The Associated Press formally adopted the policy that “the content of a [press] photograph will never be changed or manipulated in any way” in 1989. See William J. Mitchell, *The Reconfigured Eye: Visual Truth in the Post-Photographic Era* (Cambridge: MIT Press, 1994), p.18. Similarly, the National Institute of Justice in the US lays down detailed guidelines that its members must follow. Lopes, *The Four Arts of Photography*, pp. 109-110.

<sup>37</sup> Brian Walski was fired from the *Los Angeles Times* when it emerged that he had combined two images, taken moments apart, to create a more dramatic composition of a British Soldier directing civilians near Basra during the Iraq War. The image had already been published on the cover of the 31 March 2003 edition. Scott Walden, “Truth in Photography,” in Walden (ed.) *Photography and Philosophy: Essays on the Pencil of Nature* (Oxford: Blackwell, 2008).

<sup>38</sup> AUTHOR REF 1 (chapt 3).

theory of depiction.<sup>39</sup> What is true of pictures in general is true of photographs as a kind of picture: they are two-dimensional surfaces in which we see three-dimensional scenes, but without being under any illusion that we are in the presence of the scene itself. But there are additional facts about photographs, that obtain in virtue of their mechanical means of generation, that do not hold of pictures in general, and which serve to mark photographs out as a special class of “transparent pictures” within the broader category. Transparent pictures not only prompt us, like pictures in general, to imagine of our seeing something in a picture that we are seeing that thing directly, but also enable us, qua photographs, to literally see those things. With photographs it is true both that we *imagine* seeing their objects directly and that we *do in fact* see them indirectly, and this makes photographs a distinctive kind of picture through which we literally, if indirectly, see the world. Only with photographs is it both fictionally true that I see their depicta directly and literally true that I see them indirectly: the former is true of all pictures and makes photographs a kind of picture; the latter is only true of mechanically generated pictures and makes photographs transparent.

It is important to grasp that calling photographs “transparent” does not imply for Walton, as it does for Scruton, that photographs are invisible. On the contrary, we see the subject (S) by seeing the photograph (P), when P is a photograph of S. Indeed, not only does “seeing through” photographs not imply the invisibility of the surface through which we see—unlike windows and eyeglasses—it requires that we see that surface, since we only see the subject by seeing (as opposed to seeing through) that surface.<sup>40</sup> So seeing through photographs cannot be like seeing face to face, and this

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<sup>39</sup> Walton, *Mimesis as Make-Believe: On the Foundations of the Representational Arts* (Cambridge: Harvard University Press, 1990), chapters 1 and 8.

<sup>40</sup> Walton, “Transparent Pictures,” p. 252.

creates the conceptual space to take an aesthetic interest in the way in which objects are depicted in photographs that we could not take in the same objects seen directly.<sup>41</sup>

Given this richer starting point, there is no pressure on Walton to embrace skeptical conclusions about photography. Photography is both an aid to vision *and* a means of making pictures: like telescopes, microscopes and mirrors photography gave us a new way of seeing the world; like painting, drawing or etching it affords a way of making pictures.<sup>42</sup> Acknowledging photographs' prosthetic functions need not entail denying their imaginative functions; rather, photographs are a special kind of picture through which we see the world.<sup>43</sup> Thus what distinguishes photography for Walton, as for Maynard, is the interaction of such a "mandate to imagine" with an extension of our natural powers of visual detection.<sup>44</sup> The former is the source of photography's aesthetic value, the latter of its epistemic value.<sup>45</sup>

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<sup>41</sup> Compare Lopes, "The Aesthetics of Photographic Transparency, *Mind*, pp. 441-5.

<sup>42</sup> Walton, "Transparent Pictures," p. 251.

<sup>43</sup> "Mechanical aids to vision don't necessarily involve *pictures* at all. Eyeglasses, mirrors, and telescopes don't give us pictures. To think of the camera as another tool of vision is to de-emphasize its role in producing pictures. Photographs are pictures, to be sure, but not ordinary ones. They are pictures through which we see the world." "Transparent Pictures," p. 252.

<sup>44</sup> "Photography' might be most simply characterized as the site of the most spectacular interaction of depictive and detective functions." Maynard, *The Engine of Visualization*, p. 120.

<sup>45</sup> For Walton photography is an "aid to vision" because it enables us to literally (if indirectly) see what is depicted, thereby affording a special sense of "perceptual contact" with its depicta. "Transparent Pictures," pp. 269-270, p.273, and p. 275, note 13. Such contact is independent of epistemic value, since it holds for Walton, as for Bazin, regardless of an image's quality as an information carrier. Walton, "Postscripts to 'Transparent Pictures: Clarifications and To Do's'" in *Marvelous Images: On Values and the Arts* (Oxford: Oxford University Press, 2008), p. 113. That Walton himself intended the transparency thesis to explain this sense of contact has not prevented it giving rise to a debate about the mechanical grounds of photography's epistemic and evidentiary value.

Because Walton's theory already speaks to both photography's aesthetic and epistemic capacities, it is Walton that new theorists should be cutting their teeth on. Despite this, the debates occasioned by Walton's work on photography have taken place largely within orthodox assumptions to date. Critics may dispute whether or not it is intuitive to say that we "see" our dead forbears through their photographs, yet (almost) all accept the account of natural counterfactual dependence that underwrites this claim. That this is true may not be surprising; since Walton's theory does not lead to skepticism concerning photography's standing as art, defenders of photography's artistic credentials have felt correspondingly less need to take issue with it. What has thereby gone unremarked, however, is that, precisely because Walton's account has the capacity to speak to both photography's epistemic and aesthetic capacities, it may yet be better placed than new theory to account for photography in the round. What is now needed is some analysis of the respects in which new theory is an advance over Walton's, if indeed it is.<sup>46</sup>

This is a task for another occasion, but new theory's richer conception of the photographic process already indicates the way forward. Because Walton understands photography to be naturally counterfactually dependent on its sources as a matter of definition, a photograph must not only depend on, but be of, something that exists.<sup>47</sup> By contrast, new theory can accommodate not only non-depictive photography, but also fictional photography and depictions that are themselves artefacts of the

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<sup>46</sup> Space precludes giving such an analysis here, but I make a start in AUTHOR REF 3 (2012) and it is the goal of AUTHOR REF 1 (chapt 3).

<sup>47</sup> Walton, "Transparent Pictures," p. 250. Walton grants, as does Maynard, that photographs may depict something they are not of; but qua *photographs* (as opposed to *pictures*) they can only be of what caused them.

photographic process. That is, photographs without an *extra*-photographic source.<sup>48</sup> On Walton's account, the latter cannot count as photography *stricto sensu*; on the new theory all will count as "photography proper," of which there will henceforth be many varieties and forms, no longer circumscribed by photography's knowledge-oriented uses. Walton's commitment to natural counterfactual dependency has very similar consequences to Scruton's commitment to causality when it comes to combination prints and digital montages. Because both take photography to depend, as a matter of definition, on its sources, such images can at best be understood as special cases: they may be pictures comprised of photographic parts, but they cannot be photographs *simpliciter*.<sup>49</sup> Again, not so according to new theory.

Finally, there may be reason to think that even resolute new theorists have yet as resolute they might. Note the tendency, even on the most permissive views of the photographic process, to assume that artistic intervention only kicks in *downstream* of the photographic event. Why assume that? Specifically, why assume that photographs must *originate* in photographic events to which image-rendering processes are only subsequently applied? This implies that nothing of import to the photographic process may take place upstream of photographic event. This is a missed opportunity, given the resources new theory now has at its disposal. In its original form, as propounded by Wilson, new theory understands the photographic process to get underway with the formation of a light image. In more recent forms proposed by Lopes and myself, new theory incorporates the pro-photographic scene.<sup>50</sup> For absent some such scene, which

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<sup>48</sup> AUTHOR REF 4, forthcoming.

<sup>49</sup> Walton, "Transparent Pictures," pp. 267-9 and "Postscripts to 'Transparent Pictures,'" pp. 114-6. Scruton, "Photography and Representation," p. 579, p. 588, p. 594.

<sup>50</sup> Lopes, "A New Theory of Photography," in *Four Arts of Photography*, AUTHOR REF 1 and AUTHOR REF 4.

may be constructed from scratch in the darkroom, there can be no light image. Since it is part of the photographic process, something without which no photograph can arise, interventions in the pro-photographic scene should count as internal to photography.

Edward Weston's idea of "pre-visualisation" is helpful to new theorists here. For one way to hear Weston's famous dictum that "the finished print must be created in full before the film is exposed," is not only as a response to, but also an implicit acknowledgement of, the force of standard skeptical worries regarding photography's standing as art.<sup>51</sup> Were everything downstream of the photographic event automatic, as orthodoxy maintains, one obvious response would be to pitch one's tent upstream. Weston's attention to what takes place *prior to* exposure is not unique in the tradition, but his reasoning is always refreshingly novel.

Rather than stressing the mechanical nature of the photographic apparatus, as almost everyone else had done, Weston draws attention to the fact that it is too quick to allow for corrective intervention once triggered. This is significant because the mechanical nature of the apparatus, as orthodoxy construes it, rules out intervention in principle, whereas a quick process only rules out intervention contingently: if we speed up, or it slows down, the difficulty lapses.<sup>52</sup> Regarding the photographic image Weston emphasizes its precision, detail, and tonal variation, but again alights on something novel: analogue photographic images are composed entirely of grain, rather than lines or mass. The fineness of this grain is responsible for the precision, detail, and tonal gradation we so value in Silver Gelatin prints. Taken together, the

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<sup>51</sup> Edward Weston, "Seeing Photographically" (1943) in Alan Trachtenberg (ed) *Classic Essays in Photography* (New Haven: Leete's Island Books, 1980), p.172. But the account is substantially in place as early as 1922. See AUTHOR REF 1 (chapt 1).

<sup>52</sup> Gary Schneider's "durational portraits," in which the photographer illuminates the features of a face or nude with a flashlight during extended exposures in an otherwise darkened studio is one practical demonstration of this.

two observations explain the need for pre-visualisation: if the recording process is too quick to allow for corrections once initiated, and corrections made after the fact, by painting onto negative or print, necessarily obscure the grain that gives photographs their distinctive quality, successful pre-visualization removes the need for both.

From the standard worry that photography's mechanical substrate allows insufficient control to be art, Weston thus draws a pleasingly novel conclusion: rather than concluding that the sceptical worry is simply misplaced, he effectively concedes that the sceptic is right in her diagnosis, but wrong in her prognosis. What scepticism shows is not that photographers need resort to handwork to dignify their productions as art, but that artistic control needs to be exerted *upstream* of the exposure that gets the process underway. The mistake for Weston is not the worry about mechanism per se, but rather the attempt to address that worry too late. If Weston was onto something almost a century ago, isn't it about time philosophers caught up? What is now needed is a philosophically defensible account of what it is to think photographically. That is, new theory needs to say something about what takes place upstream of the photographic event, and how this can bear on the production of photographs in ways that are strictly photographic. The resources to do so are already in place. Once it does, a comprehensive theory that speaks to photographic intelligence and conception, and with it photographic agency in the broadest sense, will finally be on the cards.<sup>53</sup>

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<sup>53</sup> ACKNOWLEDGEMENTS