

*Das Interesse des Beitrags richtet sich auf die künstlerische Produktion von Found-Footage-Filmen, bei der neue Filme durch die ausschließliche Verwendung von existierendem Filmmaterial geschaffen werden. Unter dem Begriff der Ästhetik des Zugangs, den Lucas Hilderbrand in seiner 2009 veröffentlichten Untersuchung *Inherent Vice* eingeführt hat, werden dabei die spezifischen Aspekte des Copyrights, der Konservierung und des Bootleggings von Filmmaterial innerhalb dieser Produktionsweise diskutiert. Am Beispiel der Kompilationsfilme von Künstlern wie Gustav Deutsch, Pierre Delpout und anderen, die innerhalb und außerhalb von institutionellen Sammlungen in Filmarchiven arbeiten, wird gezeigt, wie die Techniken der Umgehung, die für die Gewinnung und Freigabe von Archivmaterial eingesetzt werden, bis in die Ästhetik der Found-Footage-Filme zurückverfolgt werden können. In ihrer neuen amalgamierten Form hinterfragen diese Filme tradierte Konzepte wie Eigentum und Autorschaft und lassen die vielfältig verknüpften Beziehungen zwischen institutionellem Kontext, Copyright und der formalen Gestalt des Films deutlich hervortreten.*

Claudy Op den Kamp, Circumvention and the Film Archive: Found Footage, Legal Provenance and the Aesthetics of Access

1 Introduction

The focus of this article will be on the artistic practice of found footage filmmaking, defined as the practice of creating new films with extant material, and the relation of found footage filmmaking to the concept of aesthetics of access.¹ Lucas Hilderbrand introduces this term in his 2009 publication *Inherent Vice*,² in which he addresses the interconnected issues of copyright, preservation, and bootlegging. He applies these issues and the aesthetics of access to the specific case study of VHS. When he speaks of aesthetics of access, he does so in reference to the formal characteristics of the image. For example, to compile his found footage film *Home Stories* (GE 1990), filmmaker Matthias Müller assembled footage from Hollywood melodramas from the 1950s and 60s. He used a 16mm film camera to shoot the material directly off a television screen. This mode of production could have been favoured for its visual effects or as a method to circumvent securing permission to re-use the film material. No matter the motivation, the resulting slightly degraded look of the duplicated material is a direct effect of the manner in which the material was accessed. It is in this sense that the term aesthetics of access will be used in this article, which argues that techniques of circumvention that are used when obtaining archival material for compilation, together with the legal provenance of this material, can be traced through the aesthetic form of found footage films. In their new, amalgamated states, these films then question such concepts as ownership and authorship. Furthermore, and as will become evident later in the article, they also emphasise the interdependent relationship between institutional context, copyright and film form.

1 / For invaluable input and comments, thank you to Leontien Bout, Gustav Deutsch, Dan Hunter, Eef Masson, Michael Punt, Amanda Scardamaglia, and Ronny Temme. This article will be part of the upcoming monograph *The Greatest Films Never Seen: The Film Archive and the Copyright Smokescreen*, due to appear with Amsterdam University Press in 2017.

2 / Lucas Hilderbrand: *Inherent Vice: Bootleg Histories of Videotape and Copyright*, Durham 2009.

3 / The names of the Nederlands Filmmuseum and EYE will be used in tandem to highlight the precise timing of the events described. Nederlands Filmmuseum indicates the institute prior to 2010; EYE will be used to indicate the period after 2010.

II *Institutional Re-Use*

The initial focus will be on so-called institutional re-use, taking the EYE Film Institute Netherlands (hereafter: EYE) as a specific case study. EYE is the sector institute for Dutch cinema and the national museum for film. Founded in 2010, it is a merger of four other institutions, including the former Nederlands Filmmuseum.³ EYE has had a long interest in found footage filmmaking—filmmakers, such as Gustav Deutsch or Bill Morrison, have been explicitly invited to work with the collection, while found footage films by other filmmakers, such as Matthias Müller, Peter Tscherkassky, Yervant Gianikian and Angela Ricci Lucchi, have been acquired for the permanent collection. *Found Footage* was also the theme of the inaugural exhibition and corresponding film programme in EYE's new building in Amsterdam in April 2012. The institutional context allows the archive to become a place of rebirth, a place where cinematic heritage can become a raw ingredient for new films. In light of sensitive relations with donors and copyright holders, for example, certain intellectual property restrictions relating to the material are respected due to the context. However, this institutional context is also one in which archivists can intervene. They can actively enforce access to some of the collection's holdings despite legal restrictions.

III *Gustav Deutsch and the Film Archive*

Austrian filmmaker Gustav Deutsch (Vienna, born 1952) can be labelled as a filmmaker without a camera since many of his films start on the editing table. While editing, he creates a new story from extant film material, a practice he has pursued for more than 20 years. Deutsch works firm-

4 / Gustav Deutsch: *Film ist. 1–6* (1998), 16 mm, colour, b/w, 60 min; ders.: *Film ist. 7–12* (2002), 35 mm, colour, b/w, 90 min; ders.: *Film ist. a girl @ a gun* (2009), 35 mm, colour, 93 min. For Deutsch's full filmography cf. <http://gustavdeutsch.net>.

ly within the institutional context of public archives, as opposed to other filmmakers who re-use film footage found outside of that institutional context. Examples can include personal film collections, flea markets, video stores or the internet.

Information relating to Deutsch's working methods is taken from the (unpublished) transcripts of two semi-structured interviews by the author with the filmmaker. The first one took place in March 2010 in Gorizia, Italy, and the second one in April 2010 in New York, USA. After completing the first installment of his *Film ist. series* in 1998,⁴ Deutsch was invited by the Nederlands Filmmuseum to work with their material. For several weeks, he was provided with an editing table and unlimited access to the museum's film collection and preservation staff. Deutsch considers cataloguing systems too limited and too restrictive due to their tendency to focus on search topics such as genre, title, year, name of director, or a certain keyword. What Deutsch wants to find in archival film material is often very specific—for example, “man looks through peephole”—and the collections of most film museums will not have been catalogued and described on this level. Some of the scenes Deutsch seeks can only be retrieved when someone remembers seeing a particular occurrence of it in a larger film. Consequently, personal contact with archivists and other archive staff members, and the visual knowledge and memory they have of their collections, is Deutsch's starting point. The archive and its staff become a place of co-production for him rather than merely a place of research.

IV *Bits & Pieces*

Film scholar Eric Thouvenel has argued that “famous films [...] have already been authenticated, that is to say, they are signed. Thus, it is very

5 / Eric Thouvenel: “How Found Footage Made me Think Twice About Film History”, in: *Cinéma & Cie* 10 (2008), pp. 97–103.

6 / Daan Hertogs / Nico De Klerk (eds.): *Nonfiction from the Teens: The 1994 Amsterdam Workshop*, Amsterdam 1994, p. 9.

7 / Cf. Peter Delpout: *Cinéma Perdu: De eerste dertig jaar van de film 1895–1925*, Amsterdam 1997, pp. 7–8.

8 / Erik de Kuiper: “Anyone for an Aesthetics of Film History?”, in: *Film History* 6/1 (1994), pp. 104–105.

9 / Cf. Christian Gosvig Olesen: “Found Footage Photogénie: An Interview with Elif Rongen-Kaynakçi and Mark-Paul Meyer”, in: *Necsus. European Journal of Media Studies* 4 (2013), [online] available at: <http://www.necsus-ejms.org/found-footage-photogénie-an-interview-with-elif-rogen-kaynakci-and-mark-paul-meyer> (accessed 20.6.2016).

difficult for found footage filmmakers to inject meaning into the text or to say something about themselves.”⁵ In order to tell his own story and convey his own specific vision, Deutsch uses mostly non-canonical titles and (unidentified) film fragments. EYE can be seen as an institute with predominantly non-canonical holdings. It was in particular EYE’s *Bits & Pieces* collection that turned out to be a wide-ranging source for Deutsch in the research and production of his films.

The *Bits & Pieces* collection was initiated at the Nederlands Filmmuseum in the late 1980s and early 1990s by then deputy director Eric de Kuiper. The collection is a “series of (generally) short unidentified fragments of film, preserved primarily on account of the aesthetic value of the images.”⁶ Filmmaker Peter Delpout, who later became deputy director, has argued that the images of *Bits & Pieces* were compiled not in terms of a rationally categorised history, but rather according to principles that the archive thrusts upon its curious visitor: astonishment, disbelief and nostalgia.⁷ By preserving and presenting the neglected and unidentified fragments, De Kuiper challenged the prevailing historiographic position. He claimed that films that cannot be labelled cannot “acquire a historical identity” and therefore “do not exist for film history.”⁸ In making this claim, he indicated that film history writing in general does not take these archival lacunae into consideration.

The Nederlands Filmmuseum is the only archive to put together these unidentified film fragments in order to present them. Mark-Paul Meyer, senior curator of EYE and long-time compiler of *Bits & Pieces*, recently reiterated the transformative character of the Dutch practice. He observed that an aesthetic motivation to preserve films—rather than a historical one—was revolutionary in the film archiving landscape of the early 1990s.⁹ Within other archives, such as the Cinémathèque française, films were preserved only after an external committee had handpicked

10 / Cf. Peter Delpout: “An Unexpected Reception: *Lyrical Nitrate* Between Film History and Art”, in: Marente Bloemheugel / Giovanna Fossati / Jaap Guldemond (eds.), *Found Footage. Cinema Exposed*, Amsterdam 2012, pp. 218–224, here p. 220.

11 / Cf. Hertogs / De Klerk (eds.), *Non-fiction*.

them from a list of titles.¹⁰ The choices determining what was included in this list often followed the historical canon, which as a consequence of that practice was then solidly maintained. An approach to film preservation in terms of the materials themselves transformed film preservation. And watching the films became a condition for preservation that was standardised at the Nederlands Filmmuseum.¹¹ Furthermore, it was the distinctive viewing experience, personal insight, and aesthetic taste of each museum employee that provided the criteria for the ultimate preservation of the films. Preserving unidentified fragments based on aesthetic criteria did not only lead to building up an eclectic film collection. Preserving fragments that were otherwise to be discarded, also challenged other archives’ presentation strategies.

v *Orphan Works*

The collection of fragments—started, as an aesthetic experiment in the 1990s—is currently central to a legal debate around orphan works. In the early 1990s, there was no such label as orphan works, and the orphan works problem had yet to emerge. Orphan works are works that might still be within the period of copyright, but that lack an identifiable or locatable rights holder. They pose the most obvious and particular problems in efforts surrounding digitisation and access. Reproducing a work and communicating it to the public are copyright restricted activities and thereby require the permission of the rights holder. Unidentified fragments are pieces of film lacking a complete, identifiable copy of the work, which usually would include opening or closing credits with identifiable information. In the case of such unidentified fragments, it often cannot be determined whether the film is still in copyright and seeking permission for use is difficult. As these unidentified fragments are works that

12 / Stef van Gompel: “Audiovisual Archives and the Inability to Clear Rights in Orphan Works”, in: *IRIS Plus, a supplement to IRIS: Legal Observations of the European Audiovisual Observatory* 04 (2007), pp. 1–8; id.: “Unlocking the Potential of Pre-Existing Content: How to Address the Issue of Orphan Works in Europe?”, in: *IIC* 6 (2007), pp. 669–702; Mirjam Elferink / Allard Ringnalda: *Digitale Ontsluiting van Historische Archieven en Verweesde Werken: Een Inventarisatie*, Utrecht 2008, [online] available at: <http://www.wodc.nl/onderzoeksdata/base/ontsluiting-historische-archieven-en-auteursrecht-hoe-beter.aspx?cpn=44&cs=6796> (accessed 20.6.2016).
13 / <http://www.lesinrocks.com/2000/11/09/musique/techno-au-louvre-11227522> (accessed 20.6.2016).

might still be in copyright, they can be seen as orphan works par excellence.

VI Human Agency

Studies dealing with the process of providing access to orphan works reach the comparable conclusion that if the works cannot be used legally, their use may be prevented.¹² This conclusion impedes archival practice, hindering productive uses of the collections and potentially leaving them dormant. Copyright does not seem to be a restrictive concern in the re-use of the orphaned collection of *Bits & Pieces*. This is remarkable in light of the particular challenges that orphan works tend to pose in digitisation and in re-use practices more generally. The clips have played a central role in collection visibility and the sales output of both the Nederlands Filmmuseum and EYE. They have been re-used in numerous ways and in various projects, ranging from academic conferences to more commercial contexts. DJ Spooky has used them extensively, for example, in his 2000 show *Les Vestiges* (“Traces”) at the Louvre in Paris.¹³ These practices firmly underline a consistently neglected and under-researched component in archival access: the human agency of the institution’s archivists.

The law does not consist of a set of rules that is applied mechanically; these rules need to be activated. Archivists have a capacity to act—that is, they can intervene in and actively enforce access to some of the collection’s holdings despite apparent legal restrictions. They analyse whether it is worth the risk of not clearing the rights for a particular re-use, even as it is sometimes unclear what exactly those risks might entail. There is, for example, the possibility of an infringement claim—often with monetary consequences—if a rights holder were to come forward. The risks might also include jeopardising relations with (future) donors and rights

14 / Janna Jones: *The Past is a Moving Picture: Preserving the Twentieth Century on Film*, Gainesville, FL 2012, p. 109.

15 / Giovanna Fossati: *From Grain to Pixel: the Archival Life of Film in Transition*, Amsterdam 2009.

holders. Concern for these risks, however, does not seem to be at play in the process of providing access to unidentified film fragments. This is not to say there might not be any rights owners, but it is worth reiterating that most archives discard their unidentified fragments. Moreover, these fragments are often cut from larger, severely deteriorating rolls of nitrate film, most of which will also be discarded. Preserving these fragments for purely aesthetic reasons favours their cultural dissemination; they can only reach their “potential for history making”¹⁴ when they are publicly accessible. Providing access to unidentified fragments, in turn, also sheds light on the need to provide access to other—orphaned—titles.

In the history of the Nederlands Filmmuseum and EYE there are no examples of copyright infringement claims. This might be a reflection of the particular composition of the collection and what is decided to provide access to in the case of unclear copyright ownership. The institution’s collection consists mostly of non-canonical film titles, and these kinds of titles do not tend to feature centrally in copyright infringement cases. At the heart of such disputes are often more canonical titles. A famous example includes the lawsuit concerning director John Huston’s moral rights and the colourisation of his 1950 film *The Asphalt Jungle*. The absence of claims in the case of EYE is also a reflection of a certain attitude, based on risk analysis, towards archival access. Apart from preservation, the Dutch archive sees providing access to its holdings as one of its most important remits as a public archive,¹⁵ and this is perhaps especially true when the risks are seen to be low. Other archives, however, make other decisions.

VII *Human Agency and Creative Consequences*

In the case of orphan works, the human agency of an institution’s archivists can lead to potential creative obstacles for filmmakers. In public

archives, there is often a dichotomy between the intellectual ownership and the physical ownership of archival material. Public audiovisual archives own—but usually hold on deposit—many physical works of film, whereas the copyright owner to these might be someone quite different. When it comes to orphan works, the archive cannot grant the filmmaker the legal permission to re-use them without further research into who owns the copyright. However, based on their exclusive ownership of source material and a capacity to act, an archive can grant a filmmaker the material permission for re-use. Archivists, however, seem to tread a fine line between being able to enforce access and what is colloquially termed as gatekeeping.

For Deutsch, a key example is found in the stag films he re-used in *Film ist. a girl & a gun*. These are brief, silent, and explicitly sexual films that were produced in the first half of the 20th century, mostly illicitly due to censorship laws. The films in question formed part of the film collection at the Kinsey Institute for Research in Sex, Gender and Reproduction at Indiana University. The institute created initial creative obstacles for the filmmaker by restricting access to some of their holdings and thus pre-selecting his range of possible choices. It also declared the films shot by Alfred Kinsey himself, in the 1940s and 1950s, on human sexual behaviour off-limits to the filmmaker. Remarkably, these films are not available for anyone to watch, even on the archive's premises. Deutsch's interpretation of this policy is that the institute is afraid that Alfred Kinsey might retrospectively be labelled as a pornographer. What is lost by gatekeeping material in this way is exactly the possibility for such a historical re-interpretation. In the worst-case scenario, the film material will deteriorate and ultimately disappear for good. In the case of Deutsch's production process, the institute discovered it did not own the rights to the particular stag films that the filmmaker intended to re-use. Based on

16 / Peter Delpout: *Lyrisch Nitraat* (engl.: *Lyrical Nitrate*, 1990), 35 mm, colour, b/w, 50 min.

their exclusive ownership of the—mostly anonymous—source material and a risk assessment, they nonetheless granted him the material permission for re-use. Instead of a licensing fee, they ultimately charged him an archival handling fee.

In contrast, a rights holder refusing their permission for re-use or significantly slowing down the process of re-use is nothing out of the ordinary. This is the rights owner's prerogative. One example in Deutsch's experience involved an emeritus professor who produced and owned the rights to a medical film that the filmmaker wanted to re-use. A lengthy letter exchange between the two ensued but the rights owner did not want to see his scientific work re-appropriated in an artistic context. In this case, Deutsch ultimately needed to look for alternative footage.

Another example in which the decision-making processes of archivists played a significant role was the production of Peter Delpout's film *Lyrical Nitrate*.¹⁶ Delpout—who was the deputy director of the Nederlands Filmmuseum at the time of the film's production—was interested in telling the story of three misconceptions about early film: silent film was mostly shown in colour; it shows unexpected fluidity when projected at the correct speed; and it does not solely consist of slapstick. *Lyrical Nitrate* uses the Nederlands Filmmuseum's Desmet film collection as a hook to tell this story. These silent films (approximately 900 in number) are still part of EYE's collection and in 2011 they were inscribed in the UNESCO Memory of the World Register. The films of the Desmet collection had entered into the public domain at the time of the production of *Lyrical Nitrate*, and so there would be no need to ask rights owners for permission of re-use. The Nederlands Filmmuseum, however, exclusively owned the physical material and could restrict access on a material level. When Delpout made the film he was firmly on the inside of the archive, and this allowed him (to negotiate) access to the material. He agreed with

17 / Delpout, An Unexpected Reception, pp. 218–224, here p. 223.

18 / Id., p. 220.

19 / Patrick Russell: “Re:found footage” (2013), [Online] available at: <http://www.bfi.org.uk/news-opinion/bfi-news/re-found-footage> (accessed 20.6.2016).

20 / Giovanna Fossati: “Found Footage. Filmmaking, Film Archiving and New Participatory Platforms”, in: Bloemheувel / Fossati / Guldemond (eds.), *Found Footage*, pp. 177–184.

the then director to use only material that had already been preserved, thus limiting his choices at the time of compilation.

The filmmaker had privileged access not only to material that had already been preserved, but also to other, less obvious material. In a recent reflection, written some twenty years after the film’s production, Delpout argues that “[a]ccess is the secret to any documentary.”¹⁷ All fragments of *Lyrical Nitrate*—apart from the closing sequence—originate from the Desmet film collection. The spectacular finale of *Lyrical Nitrate* shows the random flickering pattern of decaying nitrate, which is quite literally decaying off the screen. According to Delpout, this scene would never have ended up in the film had he not worked in the film archive.¹⁸ The filmmaker chanced upon the decomposing scene in his other daily archival activities. Despite—or perhaps because of—its advanced state of deterioration, the scene was the only title specifically preserved for compilation into *Lyrical Nitrate*.

VIII *Non-Institutional Re-Use*

Found footage filmmaking can be seen as a practice that keeps “collections in the public eye and [that makes] them matter to modern audiences.”¹⁹ In the case of *Lyrical Nitrate*, the institute that housed and exclusively owned the nitrate source material helped to facilitate access to historic footage. It also facilitated a particular film historical narrative through its policy of allowing film fragments to be incorporated into newly amalgamated work, thereby highlighting archival lacunae. By writing film history “with the films themselves,”²⁰ found footage films continually pose central questions: What is film? And, by extension, what is film history? And even, what is the function of the film archive? By attempting to strip films from the history of film with which these

21 / Eli Horwatt: "A Taxonomy of Digital Video Remixing: Contemporary Found Footage Practice on the Internet", in: Ian Smith (ed.), *Cultural Borrowings. Appropriation, Reworking, Transformation*, Nottingham 2009, pp. 76–91.

22 / Nico De Klerk: "Designing a Home: Orphan Films in the Work of Gustav Deutsch", in: Wilbrig Brainin-Donnenberg / Michael Loebenstein (eds.), *Gustav Deutsch*, Vienna 2009, p. 114.

23 / Christian Marclay: *The Clock* (2010), video, colour, b/w, 24 h.

24 / Nicolas Provost: *Gravity* (2007), 35 mm, colour, b/w, 6 min.

25 / Vicky Bennett: *The Sound of the End of Music* (2010), video, colour, 4 min.

26 / Daniel Zalewski: "The Hours: How Christian Marclay made the Ultimate Digital Mosaic", in: *The New Yorker*, March 12 (2012), [Online] available at: <http://www.newyorker.com/magazine/2012/03/12/the-hours-2> (accessed 20. 6. 2016).

films were previously associated, found footage films foreground such concepts as authorship and ownership.²¹ The practice of filmmakers working outside of an institutional archival context brings these questions into clear focus.

Traditionally, (analogue) found footage films have been concerned with "showcasing the potential of films that have fallen from the mainstream."²² Because of new and innovative ways of accessing more canonical films, current—digital—found footage practices are no longer practices of re-using leftovers. Several contemporary filmmakers ignore or actively position themselves against (the constraints of) copyright law. Instead of asking for permission to re-use material, they have found alternative ways to obtain their source material, circumventing both archives and rights owners. New—non-institutional—possibilities to access films have arguably become the only manner in which certain films and artworks have been produced. Examples include Chris Marclay's *The Clock*,²³ Nicolas Provost's *Gravity*,²⁴ and Vicky Bennett's *The Sound of the End of Music*.²⁵

Marclay employed a group of six assistants who watched a plethora of films on DVD from a local video store. The assistants captured scenes showing clocks or mentioning time in order to provide the artist, each day, with a new selection of clips.²⁶ As there had been no previous objection to any of Marclay's appropriation art, copyright clearance was not taken into consideration when producing *The Clock*. Since finishing the piece, the artist has not received any infringement claims, which is perhaps surprising in light of the piece's commercial success. Copyright in the context of visual art institutions and of the potential transformation of found footage filmmaking practices is a topic worth more deeply exploring, as is that of rights in derivative works and compilations. Unfortunately, they both remain outside of the scope of this article.

27 / David Bordwell: "A Celestial Cinémathèque? or, Film Archives and Me: A Semi Personal History", in: Cinémathèque royale de Belgique (ed.): *75000 Films*, Crisnée 2013, pp. 76-78.

Nicolas Provost explained his compilation practice at the opening of his retrospective exhibition in Amsterdam in April 2008. He claimed that he never would have been able to produce his works if he had been dependent on a film archive for his source material. Such a manner of working would have entailed getting permission from rights owners, a practice he circumvented by obtaining footage from the local video store. In her presentation at the Recycled Film Symposium, held in Newcastle in March 2010, Vicky Bennett explained that she initially worked on a "local level". She meant that she used to work predominantly with the genres of educational films and documentaries, most of which originated on VHS. Currently, however, DVDs and broadband internet have enabled her to work with major blockbusters as well.

IX *The Question of the Archive*

Film scholar David Bordwell has recently argued that different ways of accessing material outside of the institutional archival context have eradicated the "economy of scarcity":

"Throughout the 1970s and early 1980s, an economy of scarcity still ruled. Most films, even recent commercial hits, could be found only in studio libraries and public or privately maintained film archives. [...] A procession of new technologies, starting in the 1970s, radically and forever changed access to films, [such as] cable television, [...] VHS, [and] DVD. [...] With so many films easily available on digital formats, people who relied upon archives have found other options. [...] Home video abolished the economy of scarcity."²⁷

While this affects educators who rely on teaching film history with DVD, for instance, it also has affected the contemporary practice of found footage filmmaking. In an analogue era, found footage films made within a public institutional context were often defined by non-canonical

28 / Matthias Müller: *Home Stories* (1990), 16 mm, color, 6 min.

29 / Thom Andersen: *Los Angeles Plays Itself* (2003), video, colour, b/w, 169 min.

30 / This information was provided by Thom Andersen during his presentation at the “Reimagining the Archive” conference at UCLA in November 2010.

content and high quality reproduction. In the case of *EYE*, Delpout’s *Lyrical Nitrate*—as well as the first two installments of Deutsch’s *Film ist. series*—can be seen as representative examples. Outside of that context, however, alternative ways of obtaining source material than from an archive—and less than ideal reproduction methods—were ultimately reflected in the final form of these films. A clear example of such an aesthetics of access is Matthias Müller’s *Home Stories*,²⁸ for which the filmmaker shot 16mm film off a television screen. Another example is Thom Andersen’s *Los Angeles Plays Itself*,²⁹ a video essay about that city’s portrayal in the history of film. Andersen compiled low-resolution video due to the fact that he was not able to obtain formal permission from the studios for re-using the (Hollywood narrative) film material in high resolution.³⁰

In a digital realm, found footage filmmaking within an institutional context is still often defined by non-canonical content and high quality reproduction. A representative example is the last installment in Deutsch’s *Film ist. series: a girl & a gun*. It is the works that are made outside of that context, however, that have undergone a dramatic transformation. High quality reproduction and the potential for a shift towards canonical content has quickly brought the role of the traditional archive into question. The aesthetics of access in these works is defined on both a formal and on a content level (the aforementioned works by Marclay, Provost and Bennett are all prominent examples). Moreover, by underlining the legal provenance of the content of the source material, these works can be seen as legally resistant.

One of the roles of the traditional archive might be to provide the legally uncertain works, the orphan works, with a home. Outside of the institutional context, these works would most probably languish due to their precarious legal status. Films made within the institutional context, especially those re-using orphan works, can then be seen to highlight the potential of the film archive.

The practice of found footage filmmaking has changed intensively over the past few decades. As a consequence of this shift—which is not necessarily caused by the binary opposition between analogue and digital—an opposition between institutional and non-institutional practices has more clearly come into focus. Tracing the legal provenance of archival material through the aesthetic form of found footage films has shown the significance of a particular interaction: the relationship between the film archival institution, copyright and the archivists' human agency has resulted in films that challenge traditional conceptions of authorship and ownership. An additional focus on artistic methods of circumvention outside the institutional context has not only illustrated that those practices can be seen as legally resistant. More importantly, the access practices of artists working outside of traditional archival institutions expose the politics of the traditional archive. A focus on circumvention in found footage filmmaking practices has illustrated that it is the role of the traditional archive itself that is at stake.