

David Slater, a wildlife photographer, dedicated part of his career to capturing the striking and unique expressions of Sulawesi macaques. In 2011, during an expedition to Indonesia, he ingeniously set up his camera with a wide-angle lens on a tripod, allowing the monkeys to interact with it. This insightful setup serendipitously led to the monkeys capturing a series of their own portraits, famously known as the “monkey selfies.”

The monkey selfies quickly became the center of a legal and ethical controversy. Wikimedia placed these images into the public domain, arguing that since the photographs featured a non-human creator—the macaques—the photos could not be copyrighted. This stance was supported by groups like PETA who argued for animal rights. However, Slater challenged Wikimedia’s perspective, asserting his role in conceptualizing and making the photos possible, thus deserving the copyright.

Legal proceedings ensued, ultimately resulting in a court decision that ruled against Slater’s copyright claim. The court found the absence of human authorship, thus ruling the photos belonged in the public domain. Legal scholars have debated this outcome, with some suggesting alternatives where Slater could be recognized for facilitating the process. Despite the ruling, the photography community and critics contend that a precedent might deter similar initiatives, stifling future endeavors in unique creative setups involving nature.

For Slater, the ruling translated into a significant emotional and logistical toll, including financial losses that amounted to thousands in potential earnings. The case has resonated deeply within the art world, posing a chilling effect on those pursuing similar collaborative works with nature. Under my proposed allocation system, where copyright authorship is distributed by percentage, a balance of 50% for Slater, recognizing his conceptual and preparatory efforts, and 50% for the monkeys, acknowledging their spontaneous participation, seems just. This allocation paves a path for Slater to still profit from his imaginative framework while acknowledging the unintentional yet pivotal role played by the macaques in bringing the unfixed potentialities of Slater’s setup into vivid reality. **Unfixed**, until the monkey captures a moment, in a snap, anchoring it into existence.