

David Slater, a nature photographer, spent several days in an Indonesian forest photographing crested black macaques. During this time, Slater set up his camera with a wide-angle lens on a tripod, configured for easy use, intending to allow the monkeys to interact with it. His goal was to capture their spontaneity and natural curiosity. Remarkably, one macaque manipulated the camera, resulting in several “selfies,” with one photograph in particular gaining worldwide attention for its composition and the monkey’s expressive face.

The ensuing controversy centered around who held the copyright for the images: Slater, the macaque, or neither. Wikimedia Commons published the photo without compensation to Slater, arguing that as a non-human, the monkey could not hold a copyright, thus placing the photo in the public domain. PETA later sued on behalf of “Naruto,” the macaque, claiming that it should own the copyright. Ultimately, the U.S. courts found against PETA, ruling that animals lack legal standing to own copyrights; however, this decision has been critiqued by scholars like Jonathan Siderits, who argue for recognizing shared human-animal authorship in creative acts.

This legal battle had significant repercussions for Slater, both financially and mentally. The case took a toll on his income, as he reportedly lost thousands in potential earnings due to widespread, unauthorized usage of the image. This outcome has had a chilling effect on similar wildlife photography initiatives, as the lack of clear copyright ownership may deter others from engaging in creative practices that include non-human elements. My proposed solution of allocating copyright as a percentage recognizes both David’s efforts and the monkey’s contribution, suggesting a 50% allocation to David and 50% towards the monkey. This model allows Slater to benefit from his inventive setup while acknowledging the non-human element crucial to the work’s creation. The outputs of the process established by David are **unfixed**, multitudinous in their possibilities until the monkey comes along and snaps them into reality.