

You Stole My Idea!

Asking and Evaluating Questions



Objective: Thinkers will consider a real-life legal case to determine what questions need to be asked.

Lesson Outline:

1. In the thinkStarter, thinkers will consider four images and answer the question, "Is it art?" Thinkers will then write their own definitions for art.
2. Thinkers will analyze a real-life legal case about two works of art. Did one artist steal another artist's idea?
3. Thinkers will brainstorm key questions that should be asked in this case and explain why the answers to these questions are important.
4. In the thinkBigger, thinkers will examine ad campaigns that parody the work of art from the case. Thinkers will create their own parody tweet.

COMMON CORE CONTENT STANDARDS

	L3A	RI1	W10	SL1
GRADE 3	Choose words and phrases for effect	Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.	Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 3 topics and texts</i> , building on others' ideas and expressing their own clearly.
GRADE 4	Choose words and phrases to convey ideas precisely.	Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text.	Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 4 topics and texts</i> , building on others' ideas and expressing their own clearly.
GRADE 5		Quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text.	Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences	Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on <i>grade 5 topics and texts</i> , building on others' ideas and expressing their own clearly.

PowerPoint Presentation:



Instructor's Note:

The PowerPoint presentation includes four different images. Each image is numbered.



Allow thinkers to vote for each image. Is this art? For each image, ask thinkers:

- What is the best argument this is art?
- What is the best argument this is not art?

Name _____

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Asking and Evaluating Questions

thinkStarter

What is art? Do you think each of the following is art? Why or why not?

Item	Is it art?	Why or why not?
1	<input type="checkbox"/> Yes <input type="checkbox"/> No	The first picture is a human hand painted to look like a zebra. Thinkers may say that it is art because the painting is very realistic. Thinkers may say it is not art because it will disappear when the person washes their hands.
2	<input type="checkbox"/> Yes <input type="checkbox"/> No	The second picture is a child's drawing. Thinkers may say that any drawing is art. Other thinkers may say that the child is just scribbling, and the picture is not really art.
3	<input type="checkbox"/> Yes <input type="checkbox"/> No	The third picture is of an installation in Chicago on a fountain. The image on the bricks changes to show different faces. Thinkers may say that the fountain is art because it is creative. Other thinkers may feel a video of faces should not be considered art.
4	<input type="checkbox"/> Yes <input type="checkbox"/> No	The fourth image is a piece that was created to bring attention to the use of disposable plastics. The image is of plastic toothbrushes stuck in the ground between plants. Thinkers may say that this creation is more like trash than art.

How would you define the word "art?"

Art is the expression or application of human creative skill and imagination.

After the class has examined all four images, consider the following questions before thinkers write their definitions for art.

- Did everyone agree on all four images?
- Why do you think people disagree about art?
- Who gets to decide if a display is art? Why?
- Does art have rules? Why or why not? Can anything be art? Why or why not?

Instructor's Note:

Allow thinkers to share their definitions with the class. After thinkers have shared, give everyone time to go back and adjust their definitions. We're better when we put our heads together. Listening to classmates may give thinkers additional ideas around modifying their definitions.

Probing Questions:

- What is the most interesting piece of art that you've seen? Why did that piece of art capture your attention?
- How many types of art can you name? (i.e., painting, drawing, sculpting, etc.)

thinkStarter Summary

When an individual creates a piece of art, they have a right to legally protect their idea. An artist can **copyright** their piece. If a piece of art is copyrighted, no other artist may copy their work or use their work without permission. But sometimes art can be tricky. When does something become art?

Orange You Glad I Didn't Say Banana (Morford v. Cattelan, Florida, 2022)

In 2019 artist Maurizio Cattelan created an art display that he named *Comedian*. The display was a real banana duct taped to the wall.

Maurizio created this display three times. Two times the display sold for \$120,000.

What is your gut reaction to *Comedian*?

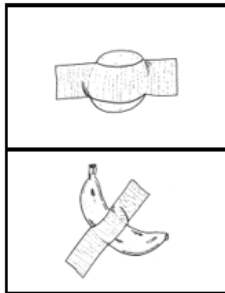
Thinkers may be shocked at the amount of money. Thinkers may be

confused about why a banana taped to a wall is considered art.

Thinkers may wonder what happens when the banana rots.

Another artist named Joe Morford heard about Maurizio's display. But Joe was upset. Joe thought Maurizio stole his idea!

In 2000, Joe made a display named *Banana + Orange*. The display was a real orange and a real banana taped to a wall with a green background.



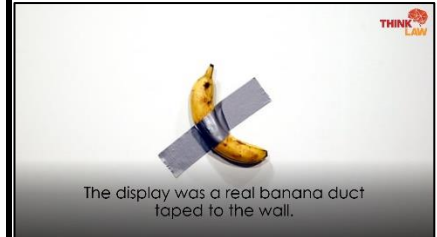
Look at both pieces. How are they the same?

Both pieces contain bananas duct taped to the wall. The tape for both pieces is at the same angle.



Instructor's Note:

Press pause and ask thinkers to share their gut reactions twice. Ask their gut reaction when they first see the piece on this slide.



Then ask their gut reactions again when they hear the sale price.

Talking about "gut reactions" is a good way to develop critical thinking dispositions. Everyone has a gut reaction. What's important is being able to recognize your initial reaction and set it aside when you look at both sides of an issue and ask questions.

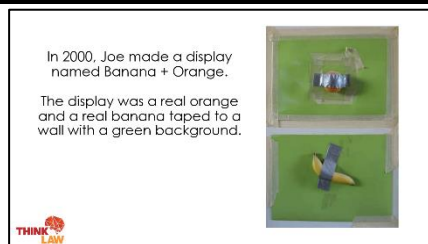
Most thinkers have

probably never thought about if fruit taped to a wall is art. Point out that everyone in the class is experiencing a gut reaction.

Pause again and ask thinkers their gut reactions when they first see *Banana + Orange*.

Probing Questions:

- Do you think these pieces are art? Why or why not?
- If you taped a piece of fruit to the wall at home, how would your parents react? Why? Do you think your parents would consider that to be art? Why or why not?



Instructor's Note:

Allow thinkers to share their observations.

Probing Questions:

- How do you think Joe felt when he first saw *Comedian*? Why?
- Why do you think someone was willing to pay so much for this art display? How long do you think the art display will last?
- How much would you be willing to pay for *Comedian*? How much would you be willing to pay for *Banana + Orange*?
- Do you think Joe would feel differently if Maurizio used an apple instead of a banana? Why or why not? Does the type of fruit matter? Why or why not?

How are the two pieces different?

Comedian only has a banana. Banana + Orange has both a banana and an orange. Comedian is on a white wall. Banana + Orange has a green background.

Do you think Maurizio stole Joe's idea? What is your gut reaction? Why or why not?

- ☐ Yes *Thinkers may say that the pieces are very similar. However, it is possible that Maurizio had never heard of Joe's work.*
- ☐ No

Joe copyrighted *Banana + Orange*. Remember, a copyright protects Joe's work. No one can use his work without permission.

Joe sued Maurizio. The Court must decide if *Comedian* is too close to *Banana + Orange*. Who should win?



thinkQuestions

Asking good questions is one of the most important things you can do. When we ask questions, it helps us move from having a gut reaction to having an **informed opinion**. An informed opinion is when you make a decision based on facts and information. Asking questions gives us better information. When we have better information, we make better decisions.

What questions need to be asked in this case?

Question	Why is the answer to this question important?
<i>Had Maurizio ever seen Banana + Orange?</i>	<i>If Maurizio had never seen Banana + Orange, then he may not have copied the idea.</i>

SEL Instructor's Note:

What is the difference between stealing an idea and sharing ideas?

- How do you know if you are sharing an idea? How does sharing ideas feel for everyone involved?
- How do you know if you are stealing an idea? How does everyone feel if an idea has been stolen?

Instructor's Note:

Give thinkers time to brainstorm questions and then leave time to discuss and share. Encourage thinkers to write down questions their classmates share that they like or write down additional questions that come to mind after they start to share.

This process can be a low floor/high ceiling exercise. All thinkers can brainstorm questions. There will be obvious questions and less obvious questions.

If you only use half of a work of art in your piece, does it violate the copyright? How much of the work needs to be copied to violate the copyright?

Maurizo only used a banana and not an orange. Did he change the art enough to be different?

Can someone copyright a piece of fruit taped to the wall? Should *Banana + Orange* have been given a copyright?

If the copyright should never have been granted, then it would be okay for Maurizo to use the idea.


How can you check if an idea has been copyrighted? If Maurizo had never seen *Comedian*, is there a way that he could have checked to see if a banana taped to a wall was copyrighted?

Is it reasonable that Maurizo could have known or could have checked to see if the banana was copyrighted?

Who should win this case? Did Maurizo steal Joe's work? Why or why not?

- ☐ Joe
- ☐ Maurizo

Thinkers may select either response. The most important part of the response is their reasoning.



thinkBigger

When *Comedian* sold for such a large amount of money, the story received a lot of attention. Many companies used tape with their products to advertise online.

A **parody** is different than copying a work of art. A parody is when someone uses the style of a work of art to make a joke. The joke imitates the original work of art. You may parody a work of art even if that work of art is protected by copyright.

Probing Questions:

- If you could only ask one question, what question would you ask? Why?
- Is there such a thing as a "bad question?" What would be a bad question in this case?
- What impact could this case have if Joe loses? How would that decision impact other artists? Do you think more artists would start copying parts of other artists' work? Why or why not? Do you think other people will tape bananas to the wall in their art?
- What impact could this case have if Joe wins? Do you think it will limit creativity? Why or why not?

Instructor's Note:

As of the publication of this lesson, this case had not been heard by the Court.

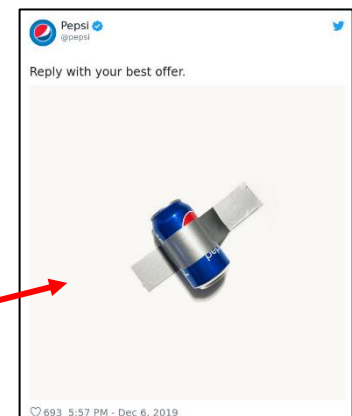
Probing Questions:

- Can you think of examples of parodies?
- Why are parodies funny?
- What would the world look like if parodies were not protected?

Instructor's Note:

The PowerPoint Presentation includes several parody images that thinkers can examine.

- Are the parodies funny? Why or why not?
- Why do you think these images are allowed? Do they cause any damages to the original work or artist?



Probing Questions:

- Which ad is your favorite? Why?
- Would you retweet any of these ads? Why or why not?
- Do you think this type of advertising is more effective than a traditional commercial? Why or why not?
- How do you think Joe feels about these ads? Why?
- How do you think Maurizio feels about these ads? Why?

Your teacher will show you some ads that parodied the *Comedian*.

How are these ads like <i>Comedian</i> ?	How are these ads different from <i>Comedian</i> ?
The ads all feature products taped to the wall. Some of the tweets reference the cost of the piece.	The ads don't include bananas. The ads are making a joke about <i>Comedian</i> online. The companies are not displaying their versions in an art gallery.

Design your own parody tweet in the space below.

Product thinkLaw



Instructor's Note:

At the end of this lesson thinkers can create their own parody tweet.

- The circle on a tweet is the company's profile image.
- Next to the circle is a space for the company name. The blue check mark means that the company has been verified.
- After the @ is the company's handle. The handle can be creative.
- In the space below, thinkers should plan their image and the language they would tweet. Thinkers may add hashtags. Tweets are short so they should only write 1-2 sentences.

Allow thinkers to work and share their ideas with the class.

- How is your idea like *Comedian*? How is your idea different?