

FAILED-ART AND FAILED ART-THEORY

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An object being non-art appears only trivially informative. Some non-art objects, however, could be saliently ‘almost’ art, and therefore objects for which being non-art is non-trivially informative. I call these kinds of non-art objects ‘failed-art’ objects—non-art objects aetiologically similar to art-objects, diverging only in virtue of some relevant failure. I take failed-art to be the right sort of thing, to result from the right sort of action, and to have the right sort of history required to be art, but to be non-art by having failure where being art requires success. I assume that for something to be art that thing must be the product of intention-directed action. I then offer an account of attempts that captures the success conditions governing the relationship between intention-directed actions and their products. From this, I claim that to be failed-art is to be the product of a failed art-attempt, i.e., to be non-art as the result of the particular way in which that art-attempt failed. An art-attempt I take to be an attempt with success conditions, that, if satisfied, entail the satisfaction of the conditions for being art—whatever those may be. To be art, then, is to be the product of a successful art-attempt. As such, any art theory incompatible with my account of failed-art is an art theory for which the notions of success and failure do not matter, and therefore an art theory for which being art needn’t be substantively intention-dependent. So, any theory of art unable to accommodate my account of failed-art is *ipso facto* false.

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I certainly do not fancy myself an artist; as far as I know, I have neither made nor attempted to make an artwork. As a consolation of sorts, I do seem to be rather good at making non-art objects, everything from bookshelves and sandwiches to more esoteric and conceptual non-art objects such as low-cholesterol recipes and exercise routines. Unfortunately, something’s being non-art is about as informative as something’s being a non-car, a non-zebra, or a non-pudding. Despite this, here I argue for an informative kind of non-art, what I call ‘failed-art’—not artworks that fail to meet some standard for artwork evaluation but non-art objects aetiologically similar to art-objects, diverging only in virtue of some failure (‘almost’ art).

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Failed-art I take to be a robust and meaningful subclass of non-art, comprising objects for which being non-art is the substantive result of some relevant failure, and thereby objects for which being non-art is non-trivially informative. Failed-art on my account isn’t merely an informative but ultimately disposable accoutrement for art theory (e.g., better off if entailed but otherwise no worse off if not entailed); it is instead a forceful

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45 art-theoretic constraint predicated on the basic working assumption that something's being art must be substantively intention-dependent. I claim that the minimal structure of failed-art is entailed by the minimal structure to which any art theory must square to be even *prima facie* viable, such that, any art theory unable to entail my account of failed-art is *ipso facto* false.

1. Informative Failure: An Instructive Example

55 Suppose we carve the world into lawyers and non-lawyers. For simplicity's sake, let's assume that passing the bar exam is both necessary and sufficient for being a lawyer.

Lawyer: a thing that has passed the bar exam (e.g. Hilary Clinton, Clarence Darrow).

60 *Non-Lawyer*: either a thing incapable of taking the bar or a thing capable of taking the bar exam that either has not taken the bar exam or has taken the bar exam but did not pass the bar exam (e.g., Pigeon the cat, ferns, the number five).

65 Compared to something's being a lawyer, a thing's being a non-lawyer *simpliciter* looks to be starkly uninformative about that thing—it could be Pigeon the cat, Renoir's *Diana the Huntress*, or an isosceles triangle. What I am after, however, are *failed-lawyers*—a subclass of non-lawyers for which a thing's being a non-lawyer is non-trivially informative about that thing.¹

70 To begin, we can suppose that a failed-lawyer must at least be a thing capable of being a lawyer, perhaps a thing that intended to be a lawyer but is not a lawyer. Gym socks can't be failed-lawyers because gym socks are incapable of intending *simpliciter*. I, however, could be a failed-lawyer because I am capable of forming such intentions. This is far too broad. Should I form the intention to be a lawyer only to be immediately and fatally struck by bus, I'm not thereby a failed-lawyer. Failed-lawyers, then, might be non-lawyers who were almost lawyers, perhaps those non-lawyers sharing at some point a variety of relevant things in common with lawyers, namely the lawyer-relevant sorts of goals, beliefs about how to achieve those goals, and actions directed by intentions informed by those beliefs. That is, failed-lawyers and lawyers both *attempted* to be lawyers, the difference being that the former failed and the latter succeeded.

85 Of course, such attempts must be of the appropriate sort. If I attempt to be a lawyer by clicking my heels together three times, my remaining a non-lawyer doesn't thereby entail that I am now also a failed-lawyer. Being a failed-lawyer must be about attempting to be a lawyer *in the right sort of way*—call these attempts *lawyer-attempts*—but having that attempt fail. What counts as a lawyer-attempt is determined by what it is for something to be a lawyer. So, lawyer-attempts are those attempts in the relevant class of attempts for being a lawyer, i.e., attempts having success conditions that,

¹Distinct from lawyers who fail to achieve the minimum standard for being a good lawyer.

if satisfied, count as sufficient for satisfying the conditions for being a lawyer. Since we are supposing that passing the bar exam is both a necessary and sufficient condition for being a lawyer, lawyer-attempts then must be attempts that, if successful, also satisfy that condition: namely, passing the bar. Presumably then, there is but one kind of lawyer-attempt: taking the bar exam. Failed-lawyers and lawyers share the same lawyer-attempt—taking the bar—but diverge with respect to the failure and success of that lawyer-attempt. Moreover, a thing being a failed-lawyer entails not satisfying the conditions for being a lawyer *in virtue of the particular way the lawyer-attempt failed* (e.g., answering the questions on the bar exam incorrectly).²

Now we have a strikingly informative notion of failed-lawyer: a thing is a failed-lawyer if and only if a) the thing is a non-lawyer and b) the thing attempted to be a lawyer in the right sort of way (lawyer-attempt) and c) the thing's being a non-lawyer is the result of the failure of that thing's lawyer-attempt.³ Furthermore, we ought to expect a basic counterfactual analysis to hold for failed-lawyers (and lawyers as well), i.e., had the lawyer-attempt in the failed-lawyer case succeeded rather than failed, then the thing would have been a lawyer rather than a failed-lawyer. Of course, the notion of failed-lawyer looks to be an informative way of dividing the class of non-lawyers precisely because we have already in play a largely agreed upon and robust notion of what it is to be a lawyer (or at least the one I stipulated).

Unfortunately, no such notion of what it is to be *art* readily suggests itself (and I dare not stipulate one). For now, I can only hazard the following:

Non-Art Objects: objects that do not satisfy the conditions for being art (e.g., perhaps gym socks, Pigeon the cat, the number five).

Art Objects: objects that satisfy the conditions for being art (e.g., perhaps the *Mona Lisa*, *Moby Dick*, Mozart's *Piano Concerto No. 9*).

Something's being non-art *simpliciter* doesn't appear to be informative about that thing in any sort of meaningful sense. To be sure, something's being a non-*F* is informative given a context in which something's being an *F* matters (e.g., being told that a nominee to the Supreme Court is a non-lawyer or being told that an object on exhibition at Art Basel is non-art). Being informed that a thing is a non-*F simpliciter*, however, doesn't inform us as to what that thing *is* but only what the thing *is not*. So too for being a non-lawyer *simpliciter* or being non-art *simpliciter*; either can only at best suggest what that thing (likely) *is not* (e.g., *not* Clarence Darrow or *not* the

²If we assume for simplicity's sake a rigid notion of what it is to pass the bar exam, then should a faulty scoring machine incorrectly score *A*'s exam as failing and *B*'s exam as passing, then *B* would be a *non-lawyer* that everyone regards as a lawyer, and *A* would be a *lawyer* that everyone regards as non-lawyer, but neither would be a failed-lawyer.

³Moreover, being a failed-lawyer suggests certain interesting or salient features (e.g., having desired to practise law, having gone to law school, having or expecting to do the things lawyers typically do). Of course, the better specified the notion of what it is to be a lawyer (e.g., perhaps also requiring one to have attended or graduated from law school), the better specified (and thereby more informative) the notion of what it is to be a failed-lawyer.

Mona Lisa). My target of interest, however, is *failed-art*,⁴ i.e., a subclass of non-art for which a thing's being non-art is non-trivially informative about that thing—to be the right sort of thing, to result from the right sort of action, to have the right sort of history required to be art, but to be non-art by having failure where being art requires success.

2. Art, Attempts, and Art-Attempts

2.1 Target Art Theories

Although I want my notion of failed-art to be as broadly applicable as possible for the sake of simplicity and workability, I target only those theories of art that are broadly definitional: theories claiming that art is in some sense definable (e.g., in terms of a singular essence, a closed disjunction, pluralist accounts consisting of multiple distinct and specifiable art concepts). For my purposes, only broadly definitional art theories *prima facie* can sustain an informative and structurally simple account of failed-art because broadly definitional art theories *prima facie* entail informative and structurally simple accounts of art. This shouldn't be a scope worry since most art theories count as broadly definitional [Beardsley 1983; Danto 1981; Dickie 1997; Levinson 1990; Stecker 1997; Zangwill 1995, 2007].

While a few art theories are non-definitional/anti-essentialist—expressly Weitz [1977]⁵ and putatively Gaut [2000, 2005]⁶—I *do not* claim that such theories are incompatible with my notion of failed-art.⁷ I think only that targeting such theories would quickly result in a comparatively uninformative and complex account. I set them aside merely to maximize clarity and depth.

2.2 Intention-Dependence and Attempt-Dependence

A basic and largely uncontroversial working assumption in the philosophy of art is that intentions are in a substantive sense necessary for something's being art—something is an artwork only if intentions substantively figure in that thing's satisfying the conditions for being art, whatever those may be. This basic assumption also grounds another basic assumption, namely that purely natural objects cannot be art objects. For a thing to be art, that thing must be in a substantive sense the product of *intentional action* (e.g., made, designed, created, constructed, fabricated, manufactured, produced, etc.).

⁴Again, not to be confused with *art objects* that fail to satisfy the conditions for being good art (e.g., perhaps objects such as Michael Bay's *Pearl Harbor*, Martin Amis' *Night Train*, the poems of William McGonagall).

⁵Weitz-inspired accounts typically claim that ART is a prototype concept. For broad support of ART as a prototype concept see Dean [2003]; for arguments against, see Adajian [2005]. For support of prototype concepts in cognitive science see Rosch [1973] and Ramsey [1998], and for arguments against see Fodor [1998] and Fodor and Lepore [2002].

⁶The truth of Gaut's cluster account appears consistent with Meskin [2007], if not an endorsement of Davies [2004], the broadly definitional project in art.

⁷A few theories are expressly non-definitional in a less reactionary manner, preferring instead address how we identify art [Carroll 1993] or the functions of artworld institutions [Iseminger 2004].

For a thing to be an elm, however, there is no such requirement. Artworks are the products of the attempts in which we engage, and intentions figure substantively by directing the actions or activities constitutive of those attempts [Ginet 1990; Bratman 1997; O'Shaughnessy 1997].⁸ Moreover, the attempts for which such intention-directed actions are constitutive can either succeed or fail, and the products of these attempts reflect that success or failure. Attempts then are goal-oriented intention-directed actions, the success of which requires that the goal obtain in the manner intended. So, if something is an artwork, then intentions must figure by being the directing force of the attempts for which that something's being art is the product—art is substantively intention-dependent only if art is substantively attempt-dependent.

This shouldn't suggest that I target only *intentionalist* art theories, i.e., theories claiming as sufficient being the product of attempts directed by intentions with certain kinds of content. Similarly, though institutional theories and aesthetic theories of art may reject the artist's attempts as exclusive art-makers, they don't thereby reject attempt-dependence. Rather, these theories clearly are attempt-dependent in virtue of employing notions themselves attempt-dependent (e.g., being art entails being the product of certain intentional actions such as achieving, appropriating, creating, designing, making, conferring, endowing, or bestowing). Given all this, I take it to be relatively uncontroversial that most art theories have a commitment to intention-dependence explicitly or implicitly satisfied by attempt-dependence [Beardsley 1983; Danto 1981; Dickie 1997; Levinson 1990; Stecker 1997; Zangwill 1995, 2007].⁹ My account of failed-art then ought to apply to most, if not all, art theories.

2.3 Attempts

My view of attempts can best be seen as a broadly informative and productive characterization of the relationship between intentional actions and their products. I take attempts to consist of a goal and an action directed by the intention that the goal obtain in the manner prescribed. I take an attempt to count as successful only when the goal obtains in the manner intended; otherwise, the attempt fails. For my purposes, an attempt has the following features:

Goal: goal F , end F , aim F , desired result F .

Intentional Action: G -ing (action, activity) with the intention that F (of F -ing).¹⁰

⁸I assume that my use of 'substantively' is meaningful and unproblematic—minimally: non-trivially/non-accidentally and maximally: exhaustively/essentially.

⁹Note that even Gaut [2000] implicitly endorses attempt-dependence as a necessary condition in virtue of explicitly claiming that artworks must be the product of intentional action [29].

¹⁰The notion of intentional action I employ should be as broad and commonsensical as possible [Mele & Moser 1997]. This should be broad enough to be incorporated without loss into ascriptivist accounts [Davidson 1980], causalist accounts [Davis 1997], explanatory accounts [Ginet 1990], decision theoretic accounts [Pollock 2002], or planning accounts [Bratman 1999] and even 'improvisational' accounts [Velleman

Note that this intentional action needn't be informed by (or require) the belief that *G*-ing would (*ceteris paribus*) result in *F* [Ginet 2004]; I do, however, assume that such beliefs often inform the relevant intentions.¹¹ I take there to be two crucial conditions on attempts:

Success Condition: An attempt is successful if and only if [*F* in manner *G*].

Product Condition: The product/result of an attempt is either [*F* in manner *G*] or \sim [*F* in manner *G*]. More specifically,

- 1) The product of a *successful attempt* is [*F* in manner *G*].
- 2) The product of a *failed attempt* is \sim [*F* in manner *G*].

Failed attempts come in two forms: simple and complex.

- 3) The product of a *simple* failed attempt is $\sim F$.
- 4) The product of a *complex* failed attempt is both *F* and \sim [*F* in manner *G*].¹²

For the purposes of simplicity and clarity, I assume that all intentional agents in play are minimally rational. I also assume that being an attempt entails the content of the directing intentions being a) conceptually coherent, b) at least in principle capable of succeeding, and c) at least in principle capable of failing. So, unless otherwise noted, all attempts in play will have the above features. I doubt that much hangs on whether there can be attempts to colour Tuesday purple, attempts to run a two-second mile, or attempts to attempt.

2.4 Attempts to *F* & *F*-Attempts (*Attempts De Re* & *Attempts De Dicto*)

Some art theories require artworks to be products of *attempts to make art*, i.e., products of actions directed by intentions employing some art concept.¹³ Some theories, however, do not require attempts to be so strictly informed. To capture this distinction, I propose the following:

Attempts to F: attempts having *F* as an explicit goal (e.g., the content of the relevant propositional attitudes mentally represent *F*).

2000]. I avoid issues regarding intensity of attempts [McInerney 2006] as well as particular semantic views of 'attempt' [Hunter 1987].

¹¹One of Ginet's sufficient conditions for trying is 'intending of her *G*-ing that by so acting she would find out whether she could *F* by that *G*-ing' [2004: 93].

¹²For example, consider my bluff-attempt in poker: to have my opponent fold a stronger hand to my weaker hand brought about by my performing some action with the intention that my opponent read that action as indicative of my hand's being stronger than her own. My bluff-attempt succeeds if and only if my opponent folds in the manner I intended her to fold; otherwise, it fails. A simple failed bluff-attempt would be one in which my opponent takes my action to be transparent, perhaps one of desperation, and therefore calls. A complex failed bluff-attempt would be one in which my opponent takes some incidental feature of my action not intended to indicate strength to in fact indicate strength, and only this causes her to fold (e.g., I intended that the amount bet be seen as indicating strength, but my opponent ignores the bet amount, instead takes the incidental manner in which I pushed the chips into the pot as indicating strength, and for that reason folds).

¹³Dickie [1997] requires artworks to be made with the intention to be presented to an *artworld* public.

F -Attempts: attempts in the relevant attempt class for *F*.

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Relevant Attempt Class for F: the class of attempts containing all and only those attempts with success conditions that, if satisfied, entail the satisfaction of the conditions for *F*.

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Providing a principled distinction between attempts to *F* and *F*-attempts allows my account of attempts to be compatible with a broad range of theories, adjusted according to the sort of *F* in play.¹⁴ Note also that a) successful *F*-attempts entail that *F*, b) failed *F*-attempts do not entail that $\sim F$, and c) failed *F*-attempts are still *F*-attempts.

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Most importantly, note the difference between something's *being an F-attempt* (something's satisfying the conditions for being an *F*-attempt) and something's *being a successful F-attempt* (an *F*-attempt that has its success conditions satisfied). For example, I needn't attempt to be a lawyer to be a lawyer. I might overhear friends talking about taking the bar exam, think that by 'bar exam' they are referring to a traditional-style pub quiz, of which I am a big fan, ask them where the 'bar exam' is taking place, go there, answer the questions, and submit my answers. I think it strange that the quiz wasn't held in a bar, that all of the questions were about law and law practice, and that the results would be mailed in six weeks. I think it even stranger when I receive a letter six weeks later congratulating me on becoming a lawyer. At no time have I ever attempted to become a lawyer, but since my attempt was in the relevant attempt class for being a lawyer (a lawyer-attempt), and was successful, I am a lawyer. My becoming a lawyer wasn't a matter of mere luck but the result of a successful lawyer-attempt, just one that didn't have becoming a lawyer as an explicit goal.

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I want to allow for similar kinds of cases for art (e.g., historical, religious, or cultural artefacts, folk or outsider art). For a twelfth-century Incan water-pot to be an artwork, we needn't require the water-pot to be the product of *an attempt to make art*. The water-pot need only be the product of an art-attempt—an attempt with success conditions that, if satisfied, entail satisfaction of the conditions for being art. So twelfth-century Incan potters need not possess the concept ART, ARTWORK, ARTWORLD, ARTFORM, etc. to make an artwork. Their attempt need only be successful and of the relevant sort. While a particular art theory may further restrict the relevant attempt class so as to exclude the attempts of twelfth-century Incan potters, I want my general structure to allow for such cases.

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2.5 Art and Art-Attempts

We can now arrive at a basic structure for a definition of art. For the sake of simplicity and clarity, I employ an essentialist structure, but I *do not* assume

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¹⁴For instance, an *F* could be such that there could be: i) neither an attempt to *F* nor an *F*-attempt, ii) an attempt to *F* but no *F*-attempt other than an attempt to *F*, iii) an attempt to *F* and *F*-attempts other than an attempt to *F*, or iv) no attempt to *F* but *F*-attempts that are not attempts to *F*.

that art has a singular essence or a readily knowable and easily expressible
 335 real definition. In what follows, I use F merely to designate the set of
 necessary conditions that, taken jointly (with attempt-dependence), are
 sufficient for something's being art. A minimal definition of art then has the
 following form:

An object w is art if and only if w is the product of a successful F -attempt.

340 That is,

An object w is art if and only if a) w is the product of an F -attempt and b) w
 345 possesses F and c) w possesses F in the manner intended as the result of the
 F -attempt.¹⁵

This formulation is broad, non-technical, and neutral as to the particulars of
 350 F . I employ F only as a stand-in for what could be a complex of properties,
 functions, experiences, attitudes, regards, etc. With this minimal structure
 for art theory in place, we can now move on to my account of failed-art.

3. Failed-Art

3.1 Simple Failed-Art

360 Suppose there to be an oddly-shaped wooden object in my backyard that
 does not satisfy the criteria for being a doghouse. For this object to be a
 failed-doghouse is for the object to be the product of a failed doghouse-
 attempt. That is, the object must a) be the product of a doghouse-attempt
 (an attempt in the relevant attempt class for being a doghouse), b) be a non-
 doghouse, and c) fail to be a doghouse as the result of the doghouse-
 365 attempt. For the thing to be a failed-doghouse is for the thing to be
 incapable of housing a dog as the result of the way in which the doghouse-
 attempt failed (e.g., my especially inept carpentry).¹⁶

Similarly, an account of failed-art must minimally establish a connection
 between the features of an object, or their absence, and the particular
 attempt of which that object is the product. Given this, I propose the
 following:

370 *Simple Failed-Art:* An object w is a simple failed-art object if and only if w is
 the product of a *simple* failed F -attempt.

375 That is,

An object w is a *simple* failed-art object if and only if a) w is the product of an
 F -attempt (*Attempt Condition*) and b) w does not possess F (*Non-Art*)

¹⁵I use 'possession' in a non-technical sense, where ' w possesses F ' can stand-in for ' w is an F '.

¹⁶Doghouses are the results of successful doghouse-attempts; whereas, the tree stump in which my dog resides
 380 is a non-doghouse that is being used as a doghouse (satisfies the function of a doghouse) [Thomasson 2007].

Condition) and c) *w* fails to possess *F* as the result of the *F*-attempt (*Failed-Art Condition*).¹⁷

For example, in a 1916 note, Marcel Duchamp wrote that he was thinking of signing the Woolworth Building in New York City so as to convert it into a readymade artwork. Imagine that he had carried out such an attempt. Most assume that unlike his other readymade works, this would have failed to produce an artwork. Presumably his attempt would have been of the same kind as those behind his other readymades, and those apparently succeeded, so his attempt would have been of the right sort (an art-attempt). What then would account for the failure, and would it be enough to make this a case of failed-art? If the result could not, even in principle, have been art, then it wouldn't be a failed-art case since lacking the requisite features for being art would have had nothing to do with the particular way in which Duchamp's attempt failed. Suppose, however, that his attempt could have, in principle, succeeded. If the product had lacked the features required for being art as the result of the particular way in which Duchamp's attempt failed (e.g., his signature being too small, his signing the wrong part, etc.), then this would have been a case of failed-art. Of course, once we begin to specify what being art requires, such questions become far easier to answer.

3.2 Testing Simple Failed-Art

Given that my project is to have my account of failed-art substantively constrain art theory, it should be illuminating to discuss in depth how a particular theory of art might accommodate (if at all) simple failed-art. I have chosen Jerrold Levinson's [1990] historical definition of art largely because it features intentions with certain contents as sufficient for being art. So while intentionalist theories purport to have deep commitments to substantive intention-dependence, I show any such commitment to be merely superficial. Levinson's definition is as follows:

An artwork is a thing (item, object, entity) that has been seriously intended for regard-as-a-work-of-art—i.e., regard in any way preexisting artworks are or were correctly regarded.¹⁸

[1990: 38–9]

Levinson's theory *does not* count intentions *qua* propositional attitudes as sufficient for being art; rather, Levinson claims that an art object must be the product of an action or activity directed by an intention of the

¹⁷I do not use 'make' and its cognates to avoid entailing or suggesting physical alteration. Note that my employment of *F*-attempts ought to appeal to those who think 'make' is a sort-relative predicate [Fine 2003]. Also, I use the passive voice to avoid overt commitment to any particular view about the source for the relevant directing-intentions.

¹⁸Of course, at first blush, definitional circularity seems afoot as artworks are defined in terms of how artworks are or have been regarded. In order to be a substantively informative theory, the regard-chain must end with an artwork not defined in terms of previous regard. These works Levinson refers to as ur-art [1990: 40]. Of course, this simply redirects the question 'What is art?' to the nature of the ur-works, on which Levinson hasn't been particularly forthcoming.

appropriate sort [1990: 9]. As such, I take Levinson to be claiming the following:

An object w is an artwork if and only if w is the product of an attempt to be regarded in way r where way r is a way in which pre-existing artworks are or were correctly regarded.¹⁹

Let R be the set of all and only those ways in which works in the extension of ‘pre-existing artworks’ are or were correctly regarded— $R = \{r_1, r_2, r_3 \dots\}$. So, the relevant attempt class for art is the class of R -attempts— R -attempt = {attempt to r_1 , attempt to r_2 , ...}. For Levinson, art-attempts are R -attempts, so as long as an object is the product of an R -attempt, that object is an artwork, which allows Levinson to capture problem cases such as outsider art and found art.

However, if Levinson is right then the content of the intentions directing the relevant activities disconnects from how the states of affairs so represented obtain (if at all). For something to be art, on Levinson’s account, just is for that thing to be the product of an R -attempt—the success or failure of such attempts doesn’t matter. For example, suppose my goal is to have my work w be regarded in way r_1 . I believe that by doing A , w will be regarded in way r_1 . So I do A with the intention that w be regarded in way r_1 , and, therefore, w is an artwork. How or if w comes to be regarded in way r_1 doesn’t matter. It could be the case that w is never regarded in any way, never regarded in way r_1 but regarded in way r_5 , or regarded in way r_1 contrary to the manner intended. Levinson can’t accommodate failed-art because for Levinson, neither failure nor success of art-attempts matters.

Consider the following cases. Let r_1 be a way of regarding in R , an r_1 -attempt consist of the goal that work w be regarded in way r_1 , and an action G be directed by the intention that w be regarded in way r_1 . The product of a successful r_1 -attempt is [r_1 in manner G] and the product of a failed r_1 -attempt is \sim [r_1 in manner G].

Putative Art Case: w is the product of a successful r_1 -attempt. That is, w comes to be regarded in way r_1 in manner G as the result of the r_1 -attempt, and so w is art.

First Putative Failed-Art Case: w is the product of a failed r_1 -attempt. That is, w is not regarded in way r_1 as the result of the r_1 -attempt, and so w is not art but failed-art.

Second Putative Failed-Art Case: w is the product of a failed r_1 -attempt. That is, w is regarded in way r_1 but not in manner G as the result of the r_1 -attempt, and so w is not art but failed-art.

Putative Non-Art Case: w is the product of an r_1 -attempt, but w is regarded in way r_1 only by pure accident. That is, neither is w regarded in way r_1 in manner

¹⁹Levinson requires that the regard intentions be non-passing (serious, stable), so I assume that the relevant directing intentions for attempts likewise must be non-passing.

G , nor does w being so regarded have anything non-trivial to do with w 's being the product of the r_I -attempt, and so w is neither art nor failed-art but merely non-art.

Despite three of the above four cases putatively featuring non-art, if Levinson is correct, then all four of the above cases feature art-objects. If no case features non-art, none can feature failed-art. In each case, the object (w) is a product of an art-attempt (r_I -attempt) and that alone, for Levinson, is sufficient for w to be art. Whether the attempt failed or succeeded doesn't matter. All that matters is that the attempt was an attempt of the right sort (that r_I be in R).²⁰ Given this, Levinson's theory entails either that all art-attempts are *ipso facto* successful or that the success or failure of art-attempts is irrelevant to something's being art.²¹ Both assumptions are quite clearly false, if not also absurd.

3.3 The Non-Standard Artefact Defence

In what we can take as ground for a defence of sorts, Levinson claims that

nothing can be declared a failed artwork, in the sense of not succeeding in being an artwork at all, through failing to display a certain broadly specified form or a particular sort of functionality.

[2007: 77]

On Levinson's view, the notions of success and failure simply don't substantively figure for artworks in the way they might for ordinary, standard sorts of artefacts. That is,

What is special about the artifact concept **ARTWORK**, one might say, is that it is a wholly relational one; it is more like those of **OBSERVED THING** or **BELOVED OBJECT** or **PRIZE-WINNER** than it is like those of standard artifacts, such as **CHAIR** or **CUP** or **CABIN**, for which there are at least minimal conditions of form as regards finished shape, of constitution as regards material, of making as regards the activity of the maker, or of functional success as regards usability of the final product.

[2007: 79]

So, although my account of failed-art may be germane for art theories employing standard artefact concepts (i.e., artefacts failing to display a certain form, perform a certain function, be constituted by a certain material, or be made in a certain way), Levinson, in taking **ARTWORK** to be a special, non-standard, artefact concept, could claim that the notions of

²⁰Note that for Levinson an agent falsely believing that [r is not a way in which pre-existing artworks have been regarded] doesn't matter—if w is the product of an r -attempt, then w is art. Likewise irrelevant should be an agent falsely believing that [way of regarding p is a way in which pre-existing artworks have been regarded]—if w is the product of a p -attempt, then w is non-art. Such cases clearly cannot be cases of failed-art.

²¹In addition to incurring obvious semantic problems for 'attempt' should the possibility of failure be excluded [Schroeder 2001].

525 failure and success motivating my account of failed-art, while forcefully apt
 for artefacts with formal, functional, or material conditions, appear only
 mutedly so, if not entirely inapt, for non-standard artefacts with wholly
 relational conditions. My objections to his theory then would be to that
 degree misguided.

530 On the contrary, given the concepts to which Levinson likens ARTWORK,
 we ought to expect the success and failure of attempts to figure just as
 forcefully, i.e., for his theory to be supportive of, rather than inconsistent
 with, my account of failed-art. For example, consider PRIZE-WINNER.
 535 Something isn't a prize-winner *simpliciter*. Rather, to be a prize-winner is
 to be a prize-winner with respect to some prize P , eligibility class E , and
 selection process S where S ranges over all and only those members in E . So,
 w is a prize-winner for P if and only if w is in E_P and w is the output of
 $S(E_P)$. Given this, we can then divide the world into prize-winners and non-
 540 prize-winners, of which an informative subspecies is *prize-loser* (i.e., non-
 prize-winners that were eligible to win the prize). So, *prima facie*, PRIZE-
 WINNER is to NON-PRIZE-WINNER is to PRIZE-LOSER what ARTWORK is to NON-
 ARTWORK is to FAILED-ARTWORK.²²

This comparison looks quite appropriate. For Levinson, being art is
 545 akin to winning a lottery where the prize is art-status, regard-intention
 establishes eligibility, and history selects the winning regards. Of course, in
 standard lottery cases, my intentions alone can't make me the lottery
 winner because the selection process doesn't range over number-selection
 intentions *simpliciter*; rather, it ranges over indicated number-selections
 550 (tickets), which are assumed to be the result of successful number-selection
 attempts (e.g., ticket holders selecting certain numbers, then filling in
 corresponding ovals with the intention of having the ovals so filled result
 in a ticket indicating all and only those numbers they selected). Levinson's
 regard lottery, however, disconnects the selection process from the
 eligibility class, which is equivalent to winning the lottery with a losing
 555 ticket, winning simply by having intended to select the 'winning' numbers
 despite failing to have the ticket indicate that selection (e.g., mistakenly
 filling in the wrong ovals). To win Levinson's regard lottery just is to be a
 thing intended for regard in one of the ways history selects as the 'winning'
 regards—*whether or not the thing actually or could be coherently so*
 560 *regarded*. The problem for Levinson is that history doesn't range over
 regard-intentions *simpliciter*; rather, it ranges over the ways in which
 objects are or have been regarded *assuming them to be the result of*
successful regard-attempts. As such, ARTWORK as a non-standard artefact
 concept appears to be both implausible and wholly unable to provide the
 565 means by which Levinson's art theory can either skirt the failed-art
 constraint or blunt its force.

570 ²²Similarly for OBSERVED THING—a thing in an observer's visual field that is the object of observation; NON-
 OBSERVED THING—a thing that is not the object of observation; a subspecies of NON-OBSERVED THING is
 UNOBSERVED THING (OVERLOOKED THING)—a thing in an observer's visual field but not the object of
 observation. Also note that I can attempt to be observed by A but fail to be observed by A in virtue of the
 way in which my attempt to be observed failed.

Suppose that one doesn't find this persuasive. What then might be the substantial difference between the work in the *Putative Non-Art Case* and a visually indistinguishable natural object likewise regarded? The only difference to which one can appeal is intentions: i.e., the work in the *Putative Non-Art Case* is the product of an attempt and therefore intention-dependent, but the visually indistinguishable natural object clearly cannot be intention-dependent. Notice, however, that intentions, while present in the *Putative Non-Art Case*, nevertheless contribute nothing substantive. Intentions appear to be at best causally trivial, absent entirely from the work's substantive causal history. The *Putative Non-Art Case* is an object for which the presence of intentions plays no more substantive a role than does the absence of intentions for the similarly regarded and visually indistinguishable natural object. That an object is trivially the product of an art-attempt shouldn't be sufficient for that object's being art. If attempts need only figure trivially, if at all, then intentions need only figure trivially, if at all.

Levinson's theory then entails no substantive intention-dependence and therefore cannot be compatible with failed-art—the same attempt cannot both result in an object's failure to be art and be sufficient for that object's being art. If certain ways of regarding are important, then artworks must be regarded in those ways as the result of a successful attempt to have them so regarded. Absent this, the only role played by attempts (and therefore intentions) is to safeguard the theory against admitting visually indistinguishable natural objects as art (thereby acquiring a distinctly *ad hoc* flavour). This role itself cannot plausibly exhaust intention-dependence *qua* substantive necessary condition. We assume substantive intention-dependence to be a necessary condition for something's being art, and Levinson's theory of art entails that intention-dependence is a necessary condition for something's being art (it is, after all, an intentionalist art theory). Unfortunately, on his theory, intention-dependence as a necessary condition looks to be neither interesting nor substantive.²³

3.4 Complex Failed-Art

As the *Second Putative Failed-Art Case* showed, an object's failure to possess *F simpliciter*, while sufficient for being non-art, isn't necessary. Some non-art objects possess *F* but fail to do so *in the right sort of way*. Another kind of failed-art is needed.

Complex Failed-Art: An object *w* is a complex failed-art object if and only if *w* is the product of a complex failed *F*-attempt.

²³Perhaps what I call 'failed-art objects' are simply art objects that fail to be any good precisely because they feature a failed art-attempt. This won't do. Presumably, good- and bad-making properties of an artwork ought to seize onto or track the properties which make that thing an artwork, so to claim that failed-art objects are just bad art rather than non-art entails having the failure and success of art-attempts both descriptively absent and *arbitrarily* present in art evaluation, so such a reply only compounds the problem by making intention-dependence an *ad hoc* evaluative consideration.

That is,

625 An object w is a complex failed-art object if and only if (a) w is the product of an F -attempt (*Attempt Condition*) and (b) w possesses F but not in the manner intended (*Non-Art Condition*) and (c) w fails to possess F in the manner intended as the result of the F -attempt (*Failed-Art Condition*).

630 Imagine that I attempt a realistic portrait of my aunt Jane. I am such an inept painter that the result fails to resemble her in the slightest—it, and not my aunt Jane, looks like an irregularly shaped blob—and as such fails to be a portrait of my aunt Jane. However, the irregularly shaped blob possesses rather striking aesthetic properties, though only as an accidental (and unbeknownst to me) result of actions intended to be in service to the portraiture. Assume for the sake of argument both that attempts at portraiture are art-attempts and that artworks must possess striking aesthetic properties as the result of a successful art-attempt. While the work has striking aesthetic properties and its having those properties resulted from my art-attempt, the work did not acquire those properties in the intended manner; the work has those properties as the result of the way in which my attempt at portraiture *failed* and not as the result of any successful art-attempt. Though my work may appear to be an artwork, my work is a case of complex failed-art, and therefore non-art.²⁴

645 This suggests that complex failed-art objects could be mistaken for art objects, just as someone who acts like a lawyer, talks like a lawyer, and defends me in court like a lawyer, may turn out upon deeper inspection to be a failed-lawyer. Even were she now to pass the bar exam, this doesn't retroactively make her a lawyer. Similarly and unsurprisingly, it could be the case that many objects thought to be art are in fact complex failed-art. Knowing that being art entails being F doesn't thereby make me an infallible (or perhaps even good) F -detector, and thankfully art theories needn't require clairvoyance about either art or failed-art.

650 From the accounts of simple and complex failed-art, a complete account of failed-art emerges:

655 *Failed-Art:* An object w is a failed-art object if and only if w is the product of a failed F -attempt.

That is,

660 An object w is a failed-art object if and only if (a) w is the product of an F -attempt (*Attempt Condition*) and (b) w does not possess F in the manner intended (*Non-Art Condition*) and (c) w fails to possess F in the manner intended as the result of the F -attempt (*Failed-Art Condition*).

665 An object's being failed-art *simpliciter* informs us, not just that the object has or doesn't have certain features, but rather, that the object fails to have

²⁴I can of course later appropriate the products of my own failures, but this clearly is another art-attempt.

those features *in the manner intended*. Both failed-art objects and art-objects share a similar aetiology—both are products of an art-attempt. The difference, of course, is the success or the failure of the art-attempt—that’s why failed-art is saliently ‘almost’ art. Any art theory then must reflect this.

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3.5 Testing Failed-Art

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To test my full notion of failed-art, I use Robert Stecker’s [1997] definition of art largely because it employs key elements from institutional, functional, and historical theories of art without thereby inheriting the problems of defining art solely in institutional, historical, or functional terms. Given this, how (if at all) Stecker’s definition accommodates failed-art should be broadly informative. His definition is as follows:

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An item is a work of art at time t , where t is a time no earlier than the time at which the item is made, if and only if (a) either it is in one of the central art forms at t and is made with the intention of fulfilling a function art has at t or (b) it is an artefact that achieves excellence in fulfilling such a function, whether or not it is in a central art form and whether or not it was intended to fulfil such a function.

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[1997: 50]

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This can be rewritten as follows in order to accommodate attempts [for simplicity’s sake, I set aside temporal indexing]:

An item is a work of art if and only if (a) either it is in one of the central art forms and is the product of an attempt to fulfil a function of art or (b) it is an artefact that achieves excellence in fulfilling such a function, whether or not it is in a central art form and whether or not it is a product of an attempt to fulfil such a function.

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Art, then, is dual-track. The first track is for works within central art forms (e.g., paintings, sculptures, poems, plays, symphonies). The second track is for works outside of central art forms (e.g., Appalachian whittling, pre-Columbian Pequot water jugs, Victorian armoires). Of course, if art is dual-track then *prima facie* so too is failed-art.

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For the sake of brevity and to provide a sharp contrast to the approach taken by Levinson, I focus solely on Stecker’s second disjunct, which again is as follows:

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An item is a work of art if and only if it is an artefact that achieves excellence in fulfilling a function of art, whether or not it is in a central art form and whether or not it is a product of an attempt to fulfil such a function.²⁵

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²⁵The contrast with Levinson should now be obvious, i.e., Levinson claims roughly that w is an artwork if and only if w is a work intended to be F , while Stecker by contrast claims roughly that w is an artwork if and only if w is a work and w is F .

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This accommodates the intuition that certain cultural, historical, and religious artefacts can be art without thereby requiring their makers to have connections to artworld institutions or to have any particular artistic, art
 720 historic, or aesthetic intentions involved in the artefact's making.

This disjunct appears to be at least *prima facie* incompatible with failed-art. For instance, it clearly denies the possibility of complex failed-art; if an artefact achieves excellence in fulfilling a function of art, then it is art—
 725 whether it does so in virtue of or contrary to the attempts behind its being an artefact doesn't matter at all. Perhaps, however, there is a sense in which the second disjunct could capture at least simple failed-art, and to that degree capture failed-art itself. Assume that function f is a function of art and object w is not in one of the central art forms.

Object w is failed art if and only if (a) w is the product of an attempt to fulfil function f (*Attempt Condition*) and (b) w does not achieve excellence in fulfilling *any* function of art (*Non-Art Condition*) and (c) w fails to fulfil function f as a result of the attempt to fulfil function f (*Failed-Art Condition*).
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Is this enough to be failed-art?
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While the above may resemble my account of failed-art, resemblance isn't enough. The above mistakenly conflates failed-art with the broad class of non-art products of failed attempts. To be failed-art isn't just to be the non-art product of a failed-attempt. Rather, to be failed-art is to be the non-art product of a failed *art-attempt*, such that the product's being non-art is the substantive result of the way in which the art-attempt failed. As such, even though w is both non-art and the product of a failed attempt, w isn't *failed-art*. An account of failed-art requires a substantive connection between the *Non-Art Condition* and the *Failed-Art Condition*, such that satisfying the latter entails satisfying the former. Notice, however, that the above decidedly attempt-free *Non-Art Condition* fully exhausts being non-art for w . As a result, neither the failure of the attempt of which w is the product nor the attempt itself has anything to do with w being non-art. Why is this?
 740 *Because the attempt of which w is the product isn't an art-attempt.* An art theory conflating failed-art with the non-art products of failed-attempts also conflates art being substantively intention-dependent with art's being intention-dependent.
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To better illustrate this consider Stecker's second disjunct again, though now in its barest structural form. Assume that being an artefact entails being the product of an attempt [Hilpinen 1993; Thomasson 2007] and let $F =$ achieves excellence in fulfilling function f ; then w is art if and only if a) w is an artefact and b) w is F .
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To be sure, if w is the product of a successful F -attempt, then w is art. For w to be art, however, w 's being F need be neither the product of an F -attempt nor the product of any attempt whatsoever; w 's being F need be nothing more than trivially connected to the attempt of which w is the product— w itself *qua* artefact need only be the product of an attempt *simpliciter*. As such, being F fully exhausts any substantive way in which w is
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art. Given that being *F* needn't be at all intention-dependent, substantively or otherwise, the only task of the artefact requirement must then be to secure a minimal intention-dependence for being art.²⁶ So, while Stecker's theory of art purports to capture substantive intention-dependence, upon inspection it does nothing more than relegate intentions to the decidedly non-substantive and borderline *ad hoc* task of warding off natural objects that are also *F*.²⁷

The theory cannot accommodate failed-art precisely because the attempts upon which the theory depends are not art-attempts. So, at least according to the second disjunct of Stecker's theory of art, intention-dependence is nothing more than trivially necessary. I take the lesson here to be the following:

If an art object's being *F* needn't be substantively intention-dependent, i.e., if intentions needn't substantively figure for an art object's being *F*, then that object's being *F* needn't substantively figure for that object's being art.

Theories of art merely allowing for the possibility of failed-art on my account rather than entailing it are thereby theories of art merely allowing for the possibility of art being substantively intention-dependent rather than entailing it. So, while entailing my account of failed-art is by no means sufficient for an art theory to be correct, it most certainly is necessary.²⁸

3.6 A Compatible Art Theory

On a brief but positive note, I want to mention an art theory I think able to capture failed-art. Nick Zangwill's Creative Theory of Art [1995, 2007] roughly claims [my formulation]:²⁹

An object *w* is an artwork if and only if (a) *w* was intended to possess aesthetic feature *F* in virtue of possessing non-aesthetic feature *N* [where that intention is dependent on some prior insight about the *F/N* dependence relation] and (b) *w* possesses *F* in virtue of possessing *N* and (c) the intention that *w* possess *F* in

²⁶Shifting the burden onto the first disjunct cannot be an option for Stecker, since doing so would allow natural objects equally capable of achieving excellence in fulfilling a function of art to become art.

²⁷On Stecker's theory, an artefact that is non-intentionally *F* is art, but a natural object that is non-intentionally *F* is non-art—natural objects can't be art objects because natural objects can't be artefacts. For intention-dependence to ground any meaningful divide between the natural world and the art world, it must be the case that natural objects can't be art because *natural objects can't be Fs in the right sort of way*, that is, objects for which being *F* is substantively intention-dependent.

²⁸Anyone rejecting the claim that art must be substantively intention-dependent must nevertheless endorse the following claim: any theory of art for which something is an art object *if* that thing is the product of a successful attempt of a certain prescribed sort *must* also be a theory for which something is a failed-art object *if* that thing is the product of a failed attempt of that certain prescribed sort.

²⁹Zangwill's own bare formulation is as follows:

Something is a work of art because and only because someone had an insight that certain aesthetic properties would depend on certain nonaesthetic properties; and because of this, the thing was intentionally endowed with some of those aesthetic properties in virtue of the nonaesthetic properties, as envisaged in the insight.

[2007: 36]

virtue of possessing *N* figures substantively in *w*'s possession of *F* in virtue of possessing *N*.

From this, we have the following requirements for *F*-attempts:

- 1) The goal that *w* have *F*.
- 2) *N*-ing with the intention that *w* have *F*.³⁰
- 3) Success Condition: *w* has *F* in manner *F/N*.

These yield the following equivalent definition:

An object *w* is an artwork if and only if (a) *w* is the product of an *F*-attempt and (b) *w* possesses *F* and (c) *w* possesses *F* in the intended manner as the result of the *F*-attempt.

So on Zangwill's account, failed-art naturally then is as follows:

An object *w* is a failed-art object if and only if (a) *w* is the product of an *F*-attempt (*Attempt Condition*) and (b) *w* does not possess *F* in the intended manner (*Non-Art Condition*) and (c) *w* fails to possess *F* in the intended manner as the result of the *F*-attempt (*Failed-Art Condition*).³¹

Whether the particulars of Zangwill's theory, when considered in detail, ought to be found persuasive isn't my concern. By accommodating failed-art, Zangwill's theory at least entails that art is substantively intention-dependent in the right sort of way.

4. What Failed-Art Means for Art Theory

My account of failed-art doesn't answer, or even attempt to answer, the question 'What is art?' Instead, my account of failed-art shows how art theory must frame its answer. That art theories, like those of Stecker and Levinson, aren't compatible with my account of failed-art doesn't entail that their respective fundamental notions (regard, art forms, art functions) are incorrect or misguided. Incompatibility with failed-art merely entails that the general structure in which these fundamental notions find themselves embedded is toxic to the basic working assumption that art is substantively intention-dependent. As such, we needn't consider whether ways of regarding, art forms, or art functions are informative and productive notions precisely because the structure of the theories employing them entail that we must reject not only failed-art but also art as substantively intention-dependent. So, art theories incompatible with my account of failed-art are *ipso facto* false. Fortunately for art theory, capturing substantive intention-dependence for art should be relatively easy; they need only conform to following rather simple yet informative structure:

³⁰Attempts can entail other attempts—a constitutive part of an *F*-attempt may be a successful *N*-attempt (e.g., bringing it about that *w* has *N* in the manner intended so as to bring it about that *w* has *F*).

³¹For example, I make the work fragile with the intention that the work be delicate, and the work is delicate as a result of my attempt but not in the manner intended (in virtue of its fragility).

An object is art if and only if that object is the product of a successful art-attempt.

By no means should this be taken as a definition of art; it is simply a claim about the general structure that any definition or theory of art must adopt in order to be even *prima facie* viable. How a particular art theory chooses to specify the relevant attempt class for being art isn't my concern. My project was to show that before an art theory can begin to answer the question 'What is art?' it must first conform to the basic structure upon which failed-art is predicated.³²

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