

International reports

Copyright protection for graffiti and street artists

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Fashion retailer H&M recently ran a marketing campaign for its New Routine sportswear line using a video of a model doing a backflip off a handball court wall in Brooklyn, New York. The wall had a graffiti mural painted on it by graffiti artist Jason 'Revok' Williams.



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Still from

an H&M video made for its New Routine campaign (Source: [H&M](#))

However, H&M did not obtain Williams's permission to feature the mural in its marketing and advertising. On January 8 2018 Williams sent a cease and desist letter to H&M asserting that its unauthorised use of his original artwork constituted copyright infringement and would cause consumers familiar with his work to believe that there was a relationship between them. In its response, H&M asserted that copyright protection did not extend to illegally created works.

H&M took it a step further (and perhaps too far) on March 9 2018 by filing a federal lawsuit in the New York Eastern District Court, seeking a declaratory judgment that Williams had no copyright in the mural because he had committed "criminal trespass and vandalism" to city property while making it. H&M stated that its outside production agency had obtained permission from the New York City Department of Parks and Recreation, which also had indicated that the graffiti was unauthorised and constituted vandalism and defacing of city property.

The social media backlash was immediate, with numerous calls on Instagram and elsewhere by street artists and others to boycott H&M. H&M quickly reversed course and voluntarily dismissed the action a week later on March 16 2018, stating that:

"H&M respects the creativity and uniqueness of artists, no matter the medium. We should have acted differently in our approach to this matter. It was never our intention to set a precedent concerning public art or to influence the debate on the legality of street art. As a result, we are withdrawing the complaint filed in court. We are currently reaching out directly to the artist in question to come up with a solution. We thank everyone for their comments and concerns, as always, all voices matter to us."

This case is just the latest contribution to the debate as to what level of copyright protection, if any, may be available for the work of graffiti and street artists. For example, in 2017 four graffiti artists (Rime, Host18, Taboo and Reme) sued shoe and clothing designer Vince Camuto for using their wall murals in its Bushwick Beats advertising campaign.

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Source:

[Vince Camuto](#)

Further, in 2014 David Anasagasti (also known as Ahol Sniffs Glue), a street artist in Miami, sued retailer American Eagle Outfitters for using his street art in its adverts.



Source:

[David Anasagasti](#)



Source:

[American Eagle Outfitters](#)

Anasagasti asserted that the use of his art in the ads made him look like a sellout to commercial corporate interests, injuring his reputation in the underground street artist counterculture.

Both cases settled (as often is the case for these disputes). This trend towards settlement leaves many of the legal issues surrounding the extent of copyright protection for graffiti and street art unsettled and unresolved by the courts. Although, as the H&M case demonstrates, graffiti artists may be able to count on some form of copyright protection by public (or, at least, social media) acclamation.

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