

LEGAL MEMO:

Copyright - Banksy (appropriation of Basquiat)

Banksy is a well-known anonymous graffiti artist based out of England. He's known for his unique stenciling technique and witty yet dark political activist messages. Two new pieces were discovered at the Barbican Center in central London¹. Controversial pieces were in tribute to the late departed Jean-Michel Basquiat, who passed away at the young age of 27 in 1988. Basquiat originally began his career as a graffiti artist and later became a Neo-Expressionist², was being featured at the Barbican which is known to detour from the arts of graffiti. Banksy felt the need to express the irony and his opinion about the featured exhibition show for Basquiat at the Barbican.

One mural was a similar take from Basquiat's Boy and Dog, created in 1982. Taking the boy and dog out of context from Basquiat's original piece and displaying two policemen welcoming Basquiat in a manner of being questioned and frisked. A political statement concerning police harassment against black Americans and/or to graffiti artist. In a deeper level, the mural is a clever political statement directly to how street artists are treated and to recall that Basquiat was once a street artist, yet is now displaying his artwork at a well renown establishment, the Barbican. The second piece was of a ferris wheel, replacing the passenger carts with Basquiat's signature artwork of the "crown" with people lining up to get on the ride; symbolically jumping on the band wagon. That the rise of his success can be interpreted as capitalism and the rise of commercializing Basquiat. This mural makes light of the exhibition and people wanting to see Basquiat's work, who once again was originally a graffiti artist. Banksy wanted people to know, that this show for Basquiat is quite hypocritical of the organizers of this show being held at the Barbican based on how that establishment feels towards graffiti artist. Both pieces had purpose to get the attention of the very people hosting Basquiat's exhibition and to bring public awareness that graffiti artists are not defacing the streets with pointless art. The buzz of his pieces are not just the controversial messages he expresses but about copyright issues as well.

Both murals take on copyright issues utilizing Basquiat's Boy and Dog artwork and his signature "crowns" used on many of Basquiat's artwork. Banksy did not have exclusive rights to copy the original piece. He took it upon himself to use Basquiat's artwork but we further discuss the issues of fair use and copyright infringement. There are four factors to take into consideration for fair use but it does not have to cover all of them in order to claim fair use. One of the most important of the four factors in fair use is the transformative use; purpose and

¹ Slawson, Nicola. "Two new Banksy artworks appear on wall of Barbican centre." The Guardian. September 17, 2017. Accessed October 13, 2017. <https://www.theguardian.com/artanddesign/2017/sep/17/two-new-banksy-artworks-appear-on-wall-of-barbican-centre>.

² "Jean-Michel Basquiat." Biography.com. May 19, 2017. Accessed October 13, 2017. <https://www.biography.com/people/jean-michel-basquiat-185851>.

character of use. Was there enough change in both his murals to claim fair use? The murals are expressing a different message than what Basquiat's original art had intended. He uses the "crown" as a representation of Basquiat with the intention to criticize the Barbican. The pieces were meant to bring controversy about respecting all artist, especially one's such as Basquiat who was a graffiti artist and is now being featured in his own exhibition in at the Barbican. Though, one can argue the Boy and Dog is a complete replica. The crowns are just like Basquiat's work but used minutely in a different manner. Banksy could be facing legal matters of copyright infringement. He had access to Basquiat's artwork and there is a striking similarity in both pieces. It's apparent Banksy is aware of the improper appropriation but that is the essence of the very message he's trying to express. The controversy on these murals is about the legacy of Basquiat and of the irony that the Barbican is displaying his artwork. But the tricky nature of these pieces was it was more of a homage and praising respect to the artist himself – Basquiat. That he deserved more of a tribute than to be mocked and represented at the Barbican, which were known to quickly clean and remove graffiti off walls. It only made sense to replicate some of Basquiat's work to truly represent him as an artist and the path he's paved and created for future graffiti artist. If Banksy did not use Basquiat's work then there would be no clear message, the murals would just be another mural.

These murals were not for profit nor to deface the value of Basquiat's artwork in the market. Though the Basquiat foundation can claim that Banksy is a well-known graffiti artist and is capitalizing on this upcoming exhibition and gaining more media attention towards his controversial pieces, using Basquiat as the punch line. They can also claim that it's known for collectors to take apart these walls to preserve Banksy's art and sell them in auction houses, though Banksy makes no profit it does effect both their market value for the media attention that is spun around his art and anonymous identity.

Being that Banksy is a famous graffiti artist himself, he simply paid his respects to another graffiti artist in the best manner possible; on the walls. Banksy was clever and took advantage of this opportunity to send a clear message to the Barbican and to bring public awareness about all artists. To simply treat all artists equally, that street artists should not be treated as criminals. They should be represented as respected artists, instead of the typical stereotype of vandalizing the walls on the streets to be outlaw criminals. After all, look how far Basquiat has come during his journey from street graffiti artist to a credible artist. These murals were created prior to the open of the exhibition and If anything created an increase of media attention to the exhibition at the Barbican. Despite the possible copyright issues, it was all in support and tribute to the late Basquiat.