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The people's *paint*

K&L Gates' Savannah Hardingham cautions fashion brands about street cred.

IN CREATIVE INDUSTRIES such as fashion design, intellectual property provides the foundation upon which a business can develop. Without intellectual property protection there is little to no value in the innovative products, designs and prints that are created. One of the most important intellectual property rights is copyright which protects the original expression of works such as the melody to your favorite song, the text of the next best-selling book or the latest innovative garment design or fabric print that is worn down the runway.

As a result, most designers are aware that they should not copy another label's print and they know how potentially devastating it could be if somebody else 'ripped off' their own designs. However, a couple of recent cases filed by graffiti artists against high end labels demonstrate that when it comes to taking inspiration from sources beyond the traditional avenues, such as street art painted onto buildings, maybe it's time for a refresher on what is, and what is not, allowed.

In May this year, Katy Perry wowed on-lookers at the Metropolitan Museum of Art's Costume Institute annual fundraising event in a graffiti inspired dress made by designer Jeremy Scott (who accompanied Ms Perry in a matching suit ensemble) for design house Moschino. However, in August 2015, the New York street artist RIME, whose legal name is Joseph Tierney, filed a lawsuit in a federal Californian court alleging that the dress in question, from Moschino's Fall 2015 collection, had reproduced a substantial part of his 2012 mural titled Vandal Eyes without his permission. The documents filed by RIME also allege that the use of his art in such a commercial way has damaged his credibility as a street artist, as he regularly declines corporate offers to license his work.

This follows a similar situation in 2014 when fashion house Roberto Cavalli was sued by street artists known as Revok, Reye and Steel, who are part of the Mad Society Kings graffiti crew. The artists alleged that the Spring/Summer

2014 Just Cavalli fragrance campaign misappropriated a large-scale mural they had created on the side of a building in San Francisco's Mission District, without their permission. In addition to using the imagery in the advertising campaign, Cavalli also licensed Staff USA, Inc, Nordstrom, Amazon.com and Zappos.com to introduce a clothing and accessories collection that was similarly adorned with the work in question.

These types of allegations of copyright infringement made by street artists are not limited to the fashion industry, with other claims recently being made by street artists against the alleged misappropriation of their artwork by companies for use on everything from disposable cups to the set design in feature films.

Although every case will depend on their specific facts, there is a growing trend of street artists taking action to assert their rights against the unauthorised exploitation of their works. It seems that street artists, like creatives working in more traditional forms before them, are now seeing copyright as a valuable form of protection by which they can control the use of their works.

It is therefore important that designers are conscious of the role that non-traditional art forms, also protected by copyright, play in the inspiration for their new pieces. Whilst it is permissible to be inspired by an art form like street art in a general way, care should be taken not to seek to replicate or emulate a particular work, as this always presents a risk of copyright infringement. If designers ensure that when they draw inspiration that it is from a range of different sources (from whatever mediums) and that they always start their design from a blank sheet of paper, without direct reference to one copyright work, then they should be well on their way to avoiding potential claims for copyright infringement. ■

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