

# UNDER THE INFLUENCE: Art in the Age of Brand Collaborations

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While artists can produce almost anything in the name of creative license, brands must jump through licensing hoops to legally reproduce art on their products. We examine this practice through an art theory lens to answer the question: If a label appropriates art without breaking a law, can they break legacy?



## “SOME COMPANY RECENTLY WAS INTERESTED IN BUYING MY ‘AURA.’” — ANDY WARHOL

We live in a digitally powered society where three-dimensional artworks have been flattened and filtered onto two-dimensional screens, emerging as simulacra to “like” online, rather than material goods to experience IRL. We share paintings on Instagram, visit exhibitions on Artsy, and bid and buy art on digital auction houses like Paddle8. Yet simultaneously to art’s futuristic-like evisceration into cyberspace, its image has ironically rematerialized back on planet Earth, landing on a different and slightly more tangible surface — streetwear, kicks, handbags — material culture’s coveted consumer goods. Today, the image of art, and not the actual art object itself, has become branding’s most coveted A-list ambassador, voyaging from hashtag to hoodie, launching from Virgil to Vuitton, like an overpaid lifestyle influencer.

Ever since Andy Warhol iconized companies like Campbell’s as part of his Pop Art career, modern and contemporary artists have continued to paint and sculpt commercial objects and brand logos as part of their repertoire. Contemporary artist Kehinde Wiley recreates historic regal paintings, but swaps out royals and saints for people wearing brands like Nike, Timberland, and Givenchy; artist George Rollo uses merchandise itself as his canvas, meticulously painting Italian Renaissance paintings on sneakers and Goyard trunks; and New York street artist Michael De Feo, aka the “Flower Guy,” built a museum-recognized portfolio by covering Dior and Chanel advertisements with his iconic flower.

Like Warhol, none of these artists require permission to appropriate a company’s iconography. It is their creative license to respond to culture around them. And brands, in their eagerness to be associated with art (and all its cultural, financial, aesthetic, and emotional baggage), simply love it. Givenchy’s Riccardo Tisci invited Wiley to collaborate, Rollo was approached by Harrods and Dolce & Gabbana, and De Feo was summoned by Vogue, whose ads he once defaced, in order to create a spread for the magazine. Even Andy Warhol was sent a note of admiration by the president of Campbell’s, who admitted he could not afford to buy his work, and offered him soup instead.

While artists get away with appropriating the image of brands on the basis of “fair use,” the legal mechanisms change, or rather, come into existence, when a brand wants to reproduce an artwork for profit. While keeping up with today’s art collaborations takes more manpower than keeping up with the Kardashians, more street-elite savvy consumers tend to wonder when and where they can cop the latest Basquiat drop, rather than why and how the artist’s image ended up on a basketball. How is it that brands are legally able to screen-print, embroider, and sell a work of art belonging to a creative entity in order to define its own commercial label? And does it even work?

In 1981, a group show titled “Public Address” debuted the art of contemporary conceptual artist Barbara Kruger, whose art’s aesthetic would develop into street culture iconography, but very much not on her terms. Best known for precocious, anti-capitalist maxims spelled out in Futura white-on-red and superimposed over black-and-white ads from the ’50s, Kruger’s work confronts the public to question their existence amidst the perils of hyperconsumerism — with axioms that include “I shop therefore I am” and “You want it. You buy it. You forget it.” It would thus be with a strong dose of irony that in 1994 the streetwear brand Supreme, arguably the epitome of the hyper-consumerist hypebeast culture itself, would debut with a white-on-red Futura text logo, unquestionably inspired by Kruger’s art.

While Supreme is renowned for its impressive repertoire of artist-designed collections, their use of Kruger’s aesthetic was not performed in a legally binding partnership like the brand executed with other blue-chip artists such as George Condo or Damien Hirst. Kruger did not give permission to use her iconic color, font, and style combination, nor would she ever receive royalties (or even acknowledgement). So how did Supreme get away with appropriating that which defines her art as a defining feature of their brand?



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The issue would ironize in 2013 with a “Supreme court” case of copyright infringement for the ages — filed not by Kruger, but by Supreme against Married to the Mob, a clothing brand that released a line of “Supreme Bitch” paraphernalia including T-shirts, towels, and hats (as famously sported by Rihanna) emblazoned with a recognizable flip of Supreme’s red-and-white box logo. So was Supreme just a bad brand hypocrite, accusing a company of cribbing their logo when they themselves were the OG cribbsters? Intellectually, yes, but legally, no.

Yayoi Shionoiri, an art lawyer whose clients have included the Guggenheim Museum, Artsy, and world-renowned collaborating artists, explains that “any time a creator creates an original work of authorship that is fixed in a tangible medium of expression, that creator has copyright.” This however, does not necessarily apply to a “concept,” “idea,” or style. This legal loophole is what the work of Kruger without having agreement with her. It is also the similar sneakery for one of its



In 1984, photographer Jacobus of basketball legend Michael wide, seismically flying with the performing a *grand jeté* that would the iconic Air Jordan “Jumpman” Rentmeester’s image at the time, to recreate the image, just with a straighter legs, higher hand, etc.).

as the final template for Jumpman’s silhouette, which now jetés across billions of dollars of merchandise. Rentmeester’s work was riffed, and, like Kruger, he would receive no royalties or credit. Yet, unlike Kruger, Rentmeester took legal actions. He sued Nike in 2015. And lost.

The Ninth U.S. Circuit Court of Appeals determined that Rentmeester was not able to claim an exclusive right to “ideas or concepts at that level of generality, even in combination.” Permitting the artist to do so “would withdraw those ideas or concepts from the ‘stock of materials’ available to other artists, thereby thwarting copyright’s ‘fundamental objective’ of ‘foster[ing]’ creativity.” Like Supreme, Nike was not making an exact replica of an “original work” — but rather, as the court judge deemed for Jumpman, had just been “obviously inspired” by an artist’s style, and one that neither Kruger nor Rentmeester could claim as their own (Kruger has even has said “I don’t own a font”).

After reaching a private settlement, Married to the Mob discontinued their “Supreme Bitch” line, though they could still use the words on their merch, just not aestheticized in Kruger’s Futura red-on-white blocked style. Which raises the question: at what point should a company be able to act like an artist, and claim “creative license” over an artwork or a creative, in order for them to express their own brand identity? To what aesthetic extent can a brand be inspired by art, rather than legally forced to partner with its creator? When it comes to plagiarism vs. appropriation, piracy vs. parody, intervention vs. interpretation, where do we, quite literally, draw the line?

When asked about the Supreme lawsuit, Kruger served the street elites a dose of her art’s most compelling asset: her words. “What a ridiculous clusterfuck of totally uncool jokers,” she wrote to Complex. “I make my work about this kind of sadly foolish farce. I’m waiting for all of them to sue me for copyright infringement.” So who had the last laugh? While Kruger certainly had the last word, both Nike and Supreme would have the last wiggle out, saving face without licensing art, but rather, somehow, claiming to be under its influence instead.

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Despite the fact that Supreme does not always give credit where credit is due, we must, for a moment, give credit to them here. The fact that copyright laws exist might well also be the reason Supreme breaks them, as well as the reason they managed to build something else: authentic brand identity, something all companies strive to do and most often fail to achieve. Just as Kruger's response was outrightly an extension of her sardonic word-based artwork, the way in which Supreme steals and vandalizes logos or art, is, for better or worse, remarkably on-brand. In other words, the company has managed to become an actual player of the rebellious boys club to whom they appeal; namely, one who does not ask permission to grind a ledge with a skateboard or to tag a wall, but simply takes, appropriates, and makes their mark. There is even an Instagram account called @SupremeCopies dedicated to decoding the various references from which they pull. In an almost performative way,

Supreme actively embodies the '90s punk, skater, and graffiti writer, and ends up operating perhaps less like a brand, but more like an artist.

Interestingly, while Supreme has gotten away with knock-off art, they have not always succeeded in doing so with other brands. Both the NHL and the NCAA filed lawsuits when Supreme used their logos, and almost two decades before Supreme partnered with Louis Vuitton for one of the most hyped collaborations of all time (with that same Kruger-esque white-on-red color scheme), they put their version of an LV trademark on a line of skateboards, prompting Louis Vuitton to send a cease-and-desist letter.

The legal difference here is critical, as it points to a greater philosophical distinction between who is considered an artist and what is considered brand: a brand (Supreme) was able to copy an artist (Kruger), but another brand (Married to the Mob) was unable to copy the brand (Supreme) who was copying an artist (Kruger). If art holds elite status, but yet is sometimes less protected than

a commercial logo, how might licensing affect creative practice, or for that matter, the integrity of the original artwork itself?

This is not the first time in history that art found itself threatened in the hands of modern consumerism. In the 19th century, as a consequence of Europe's Industrial Revolution and advancing technologies that allowed for infinite reproductions, art was being copied and commodified to satiate the collective's taste for consumption. Accordingly, this threatened what theorist Walter Benjamin famously called art's "aura": the aspect of art that cannot be reproduced in a copy. The aura is the reason a reprinted Poussin or a bootleg Basquiat could never be as valuable as the original. It lacks its inherent being, the artwork's "presence in time and space, its unique existence at the place where it happens to be."

So what would Benjamin say, witnessing young generations of cultural aficionados and the posers who wish to be them, discover certain artworks for the first time not in a museum, nor even, as he lamented, on a printed poster, but rather copied and placed on another object — a shirt, a shoe, a shower curtain? Would the art acquire the aura of the new object upon which it hangs? Furthermore, even when a brand abides by licensing laws, how much does the law protect the integrity of the art itself? And can it?

The conundrum would find one answer back at the group show "Public Address" where alongside the work of Kruger, also hung the art of her contemporaries who would wind up (legally) in collaborations, including Jean-Michel Basquiat, Keith Haring, and Jenny Holzer. With an edgy rebelliousness inherent in each of their repertoires, it is understandable that decades later their works would also be sought out to be embroidered, stitched, and screen-printed onto the aspirationally disruptive culture of streetwear, and not just by Supreme: All three artists have released decks with the Skateroom. Basquiat's skeletal portraits have crowned Reebok, Uniqlo, Diamond Supply Co., and COMME des GARÇONS (he walked for them in '87) items; Haring's limber figures have danced onto adidas, Lacoste, Element, and Urban Outfitters; Holzer's brash feminist "truisms" were appropriated by Virgil Abloh in a 2017 release.

Holzer, as opposed to Basquiat and Haring, is a living artist and is therefore able to control the fate of her art when it enters commercial spaces. For this reason, Shionoiri advises that artists, when licensing their image, make clear terms as to how it is used, for what length or period of time, and in what capacity, such as on a single accessory or in an entire runway collection. This is an important factor for living artists, who might engage with a brand and surrender too much power over their work. Appropriately, Holzer's collab created with Abloh reappropriated her famous truism, "Abuse of Power comes as no surprise," to "Abuse of Flower comes as no surprise" for T-shirts that supported Planned Parenthood. The collaboration extended her political mantras, projecting them not onto a building facade as she often does, but onto a politically-charged product.

For Basquiat and Haring, the mechanisms of "collaboration" operate slightly differently, in that the artists are not alive to confirm whether or not having their work stitched on clutches or printed on boxer briefs would be logical extensions of their creations. Rather, the estates of these artists, alongside licensing agencies such as Artestar, approve, plan, oversee, and execute collaborations on their behalf. The Keith Haring Foundation, the Estate of Jean-Michel Basquiat, as well as the Andy Warhol Foundation work to perpetuate the legacy and history of each of their namesake creatives and hold international copyrights to their works.

This may well be a reason, too, that the art of Haring, Basquiat, and Warhol (who were all friends, shared studios, and collaborated with one another) are the works most frequently reproduced by brands today. If their foundations are so dedicated to licensing their works for reproduction, and striving to push their images and legacies forward to contemporary audiences, it then begs the question: Can they push too much? If they were alive today, would the artists approve these countless collaborations? For the most part, Haring, Basquiat, and Warhol were creating and reacting to contemporary culture in an age driven by consumerism, so it is feasible that they would, seeing as their art is inherently based on consumption.

This is especially true for Warhol, who took the phenomenon of art's commodification as his theme proper. He collaborated with brands including Perrier, Burger King, Absolut, and BMW in his lifetime. On the account of the technological advancements which Benjamin lamented, Warhol recognized that art had become so overly reproduced, circulated, and celebrificated that it became iconoclastically de-aestheticized and reduced to a cliché. He therefore painted the everyday object — the Campbell's soup can — as subject matter proper, his attempt to make an event out of banality. Like Marcel Duchamp, he also changed the artist's responsibility, removing his hand from the physical process of making (such as screen-printing). "I am nothing and I can function," he said, "I am working on every level; artistic, commercial, advertising." He succeeded not because he competed against the machine, but because he became the machine. Accordingly, his foundation's licensing program "seeks out partnerships with those who understand the relevance of Warhol's practice to contemporary visual and consumer culture and who create products that reflect his maverick approach to artmaking, his ability to present the familiar from unusual perspectives." Therefore, when a brand copies an image of Warhol's art onto their commercial product, they are only perpetuating the very irony that he created.

While the "aura" of some modern artwork may find philosophical recuperation through collaboration, there nonetheless remain thousands of years of artwork by creators who were not active during an age of mechanical reproduction or consumerism. Those who painted Louis XIV and the Virgin Mary have no commonality with Louis Vuitton or Virgil Abloh. Ironically, it is the works painted and sculpted before our modern age that belong to the "public domain," a sort of "museum without walls," which can be legally reproduced without license since they no longer enjoy copyright protection.

Accordingly, as copyrights expire with time, the public domain continues to expand. This year the US welcomed in photographs, poems, paintings, and sculptures created in 1923 to the public domain. Now, Duchamps' *The Bride Stripped Bare By Her Bachelors, Even (The Large Glass)*, is free to hop and drop on a skateboard deck. This domain also explains why Virgil Abloh can put a 16th-century Caravaggio on a hoodie, and why Louis Vuitton was able to reproduce paintings by art history's masters like Titian, Poussin, Rubens, Manet, Monet, and others in their 2017 "Masters Collection" collaboration with Jeff Koons.



While the law allows for ancient or Renaissance art to be reproduced on behalf of art history, how would the original artists react? Their works were not even intended for museums or galleries, but for palaces and churches. Would Turner turn in his grave if he saw more people speeding to see copies of his art on Speedy bags than to see his originals hanging a few blocks away in the Louvre? Caravaggio himself was historically known to have quarreled with many an artist who replicated his work, and was involved in a big legal battle in the 16th century for it — making us conclude that if he were alive today, he might be the only person to turn down a collab with Abloh. Overall, would the OGs understand the copycat culture?

Yes. Because they invented it. The art of copying was started by the artists whose masterpieces swim in the public domain and whose aesthetics can be fished, for better or for worse, and taken from high art to high tops without licensing. Yet these artists were also the forces of art history who claimed art itself as a pseudo-muse: homage, appropriation, parody, commentary, and rebellion have been the defining factors of the images we see across museum atria and white-wall galleries today.

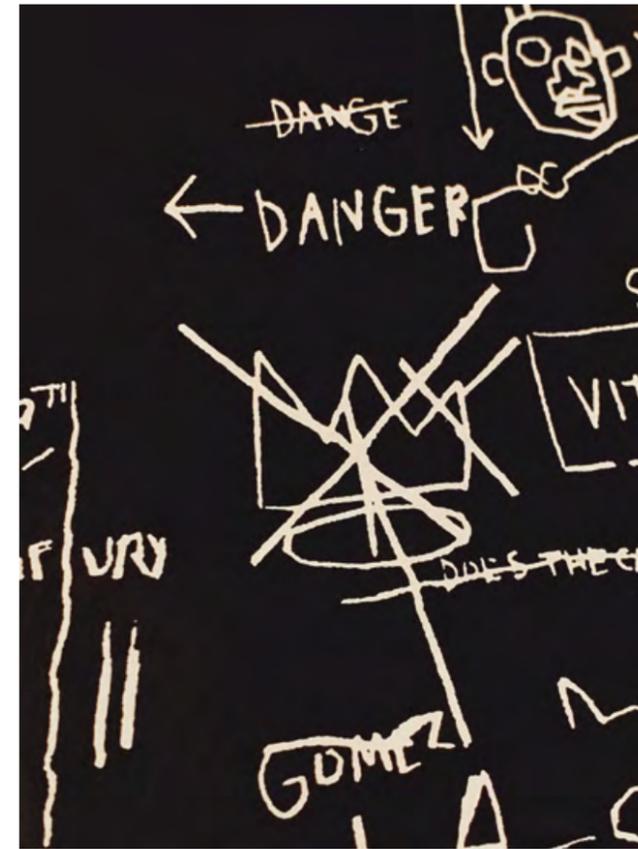
In fact, many of the greatest masterpieces have been artworks that overtly referenced or copied the art of a predecessor. Originally, an artist's impetus to create was not for self-expression but for academic juries and kings who controlled not laws of collaboration, but of creation itself, by commissioning and dictating how art should be made, what types of lines and styles it should follow, and who creatives should copy as the methodology by which to establish his or her own repertoire.

While academic art would fall into disavow after the fall of the aristocracy, the tradition of copying would continue with new motivation. Over a century before Louis Vuitton and Supreme used the image of Édouard Manet's famous 19th-century painting *Déjeuner sur l'herbe* (*Luncheon on the Grass*), Manet himself cribbed his iconic painting's layout from a 16th-century painting by Titian (which today hangs on the backside of the wall that holds the *Mona Lisa* at the Louvre). Titian's painting, *Fête champêtre* (*Pastoral Concert*) of 1509, depicts a seated nude gently draped with a cloth in the company of two musicians. In 1862, Manet created a modern version of it. A woman is seated just like Titian's, yet she is not elegantly nude, but rather brashly naked, her crumpled dress is in plain view, and she is brunching bottomless, quite literally, beside two clothed men. Manet's appropriation of Titian's painting accomplished two things: It paid homage and acknowledgement to the style of a master he was trained to copy, but it also told the world that he was dropping the ethos of art's rules. In a very Supreme kind of way, Manet performed a simultaneous rebellion against the art he quoted, riffing a style in order to build the basis of his own.

Today, copying continues in the art world to the point that creatives are so conscious of active appropriation that it becomes their subject matter. A show held earlier this year at Galerie Thaddaeus Ropac, "Artists I Steal From," curated by Alvaro Barrington and Julia Peyton-Jones, brought together works of 49 emerging and established contemporary artists, all of whom "have directly influenced the way Barrington creates, thinks, and sees, and all have perfected techniques or solutions that he has been inspired to 'steal.'" This spring, artist Eric Doeringer "stole" through parody. The night before Christie's anticipated May 15 auction wherein Jeff Koons' sculpture *Rabbit* (1987) would hop over the \$90 million mark (breaking a world record for the highest-selling artwork by a living artist), Doeringer opened his own show, humorously called "Christy's," at a Chelsea gallery; there, he exhibited his own plastic *Rabbit* (it was actually inflatable), as well as other miniature "bootlegs," made "cheap and fast," of the other pieces sold at the real auction.

Interestingly, Doeringer's impetus to create his "bootleg" series was not inspired by art history's long-standing affair with appropriation. Rather, and quite paradoxically, his muse was the culture of branding and consumerism itself. "I was inspired by the vendors I saw selling fake Louis Vuitton and Prada handbags on Canal Street," the artist explains. "Art and designer bags are both expensive status symbols, so I figured if there was a market for inexpensive knockoff bags, there would also be one for 'counterfeit' art."

Doeringer's influence points to a larger phenomenological issue in material, visual, and consumer culture itself. In an era of aspirational versatility, where Kim Kardashian is becoming a lawyer, Kanye West is a fashion designer, and the cronut king Chef Dominique Ansel released sneakers with KOIO, the roles and definitions of "artist" and "brand" (just like "musician" and "chef" and "Virgil"), increasingly obscure. Artists increasingly operate like brands, hashtagging and marketing the shit out of themselves with the gusto of an enterprise, trying to circulate their images for the masses across channels. If money and celebrification, over self-expression, are as much a cultivating drive for artists to create, then how do we continue to define what it is *to be* an artist anymore? And should artists have all the creative license they currently do if they function more like brands than bohemian creatives? Jeff Koons is the highest-paid living artist in history, and wears suits as both schtick and symbol; his



soundtrack would sound something like JAY-Z's "I'm not a businessman; I'm a business, man!" Extending a Warholian gesture, Koons does not even physically touch the works he makes; taking it even further, he hires hundreds of studio of assistants to do it for him. How is this any different from a creative director of a fashion brand who makes a sketch and has seamstresses execute his vision?

Further, if brands are attaching themselves to the legacies of master paintings, or, like Supreme, claiming creative license and rebelling against them, are they somehow functioning more in the spirit of artists? If so, is brand-on-brand, rather than art-on-brand, the future collaboration trend? In other words, are labels finally catching on to what Warhol knew decades ago: that art has developed into a symbol of an extinct system, and that by aligning themselves with a commercial entity they might find a cultural mojo and legacy which has not yet expired?

If so, then perhaps the future of branding rests in its own universe. Appropriately, NASA might be the best metaphor for the skyrocketing trend, as they appear to be

making more trips to malls than to the moon. They have already licensed their logo with brands including Heron Preston, Alpha Industries, and Vans. And the marketing agita to connect with other companies continues: KITH and Coca-Cola made a wearable drink, and Gucci scored a homerun with the iconic Yankees logo (which was actually appropriated from Tiffany & Co. in the first place, *sans* permission). As brands increasingly collaborate with others, where does this leave the image of art, if it continues to orbit spaces beyond the museum, the auction house, and even beyond the store? Will it break free from the art world's own greedy gravitational pull? And if so, what will it look like next? The day we lace up our Supreme Air Jordans, zip up our NASA x Heron Preston jacket, and declare spacewear as the new streetwear, onto what platform will the artist take his next step? And will it be the next giant leap for art history?