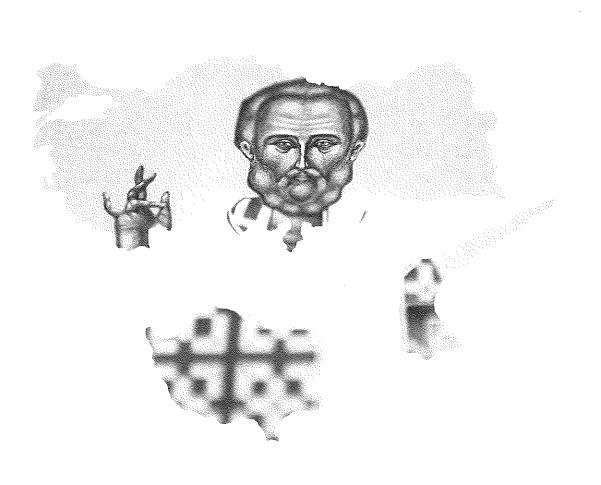
# THE JOURNAL OF ART CRIME

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## The Journal of Art Crime

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existing images to use in their own, original works. How does it compare to "sampling" of hooks or beats in music?

IDF: This whole concept of "fair use" goes right to the heart of the modern debate on copyright and other IP rights. To what extent are our IP laws stifling creativity whilst trying to protect it? And are our laws, some of which have their foundation in the late nineteenth century, fit for purpose now? We do not have this concept of "fair use" in UK copyright law, as they do in other jurisdictions, although we are likely to be liberalizing this to some extent soon. What we will look at is the question of the substantiality of the copying. To infringe copyright, a substantial part of the work taken has to be copied, and that is looked at from the point of view of both the quality of what has been copied, as well as the quantity. A small part of a work can be the crux of it (like a "hook" in a musical work), even if it is only a very small percentage of the total. It can therefore be an infringement.

NC: Fabio, let's talk about fashion law (something I know just about nothing about!) To the uneducated fashion eye (like my own), many designs look the same, or very similar. How is the distinction made between a dress that is a rip-off of an existing dress, and one that looks very similar, and was perhaps inspired by another dress, but is safe from legal action?

Fabio Moretti: Inspiration (different from copying!) is a constant source of creativity in the fashion world. Fashion designers are often inspired not only by other fashion designers, but also by artists or architects. If and how inspiration gets close to the border of copying, it has to be considered on a case by case basis, with the support of a lawyer specialized in that field of law, depending also on the case law of the specific country concerned.

NC: What is the strategy for major fashion brands regarding pirated versions of their products. Do most major brands (Gucci, Prada, Louis Vuitton) have the same, collective, tactic against piracy and copying their products to sell cheap? And does any tactic seem more successful than others?

FM: The strategy of fighting against piracy and fakes may vary depending on many factors, including the penetration of the brands in countries more at risk, and their anti-counterfeiting budgets. In any case, in my view all major brands are nowadays aware about the need to take strong actions, and sometimes they do it together, joining their efforts in some countries that are particularly problematic.

NC: One of my criminology colleagues argues that one of the problems with art crime, and I think with fake luxury goods, is that there is either no (or insufficient) social shame in being caught with them. The movement to make wearing fur socially unacceptable seemed to work, and most people just don't

wear it anymore. I wonder if such a social movement might be possible to curb art crime and fake luxury good purchases, and what form it might take, if laws don't seem to provide a sufficient disinsentive.

FM: I believe that journalists and the media play a very important role in this. In fact, counterfeiting is not only a crime in itself, leading to unemployment and stealing of Research & Development resources, but it is almost always associated with other crimes, like money laundering, tax evasion, and illegal juvenile work exploitation.

NC: It sounds like emphasizing the other, more overtly serious sides to a crime that is not generally considered to be so harmful is the way forward. Thank you all for your time and your excellent contributions to the field.

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