

# Appropriation, copyright and plagiarism

Collated resources from Visartsnet posts and links

[Copyright](#) - powerpoint for junior art students

[Visual Strategies](#) - G.Thompson paper on copyright & plagiarism

[Don't be a copycat](#) - how to make an ethical poster

# This following resources are supplied for teachers to curate their own content from to:

- educate Visual Arts students in Aotearoa about basic copyright laws for their future creative careers.
- Protect Visual Arts students from infringing the rights of other creatives and being vulnerable to court action.
- Understand and honor other's artworks and cultural heritages as part of an artist's practice that includes related morals and ethics

Please refer to the original articles and include links for copyright referencing in your classroom

# Patti Smith's advice to the young:

“Keep your name clean. Don't make compromises, don't worry about making a bunch of money or being successful — be concerned with doing good work and make the right choices and protect your work. And if you build a good name, eventually, that name will be its own currency.”

[Interview on YouTube](#) - caution - profanity

<https://www.tvnz.co.nz/one-news/new-zealand/auckland-schoolgirl-wowing-artworld-hyper-realistic-drawings>



Matariki Art ▾

Save

[500px.com](https://500px.com)

## Watching Around!

Frog & Tulip

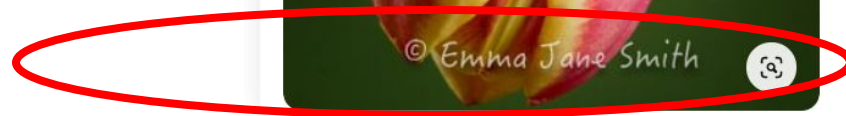
**5 photos** 2 comments



Tried this Pin?  
Add a photo to show how it went

Add photo

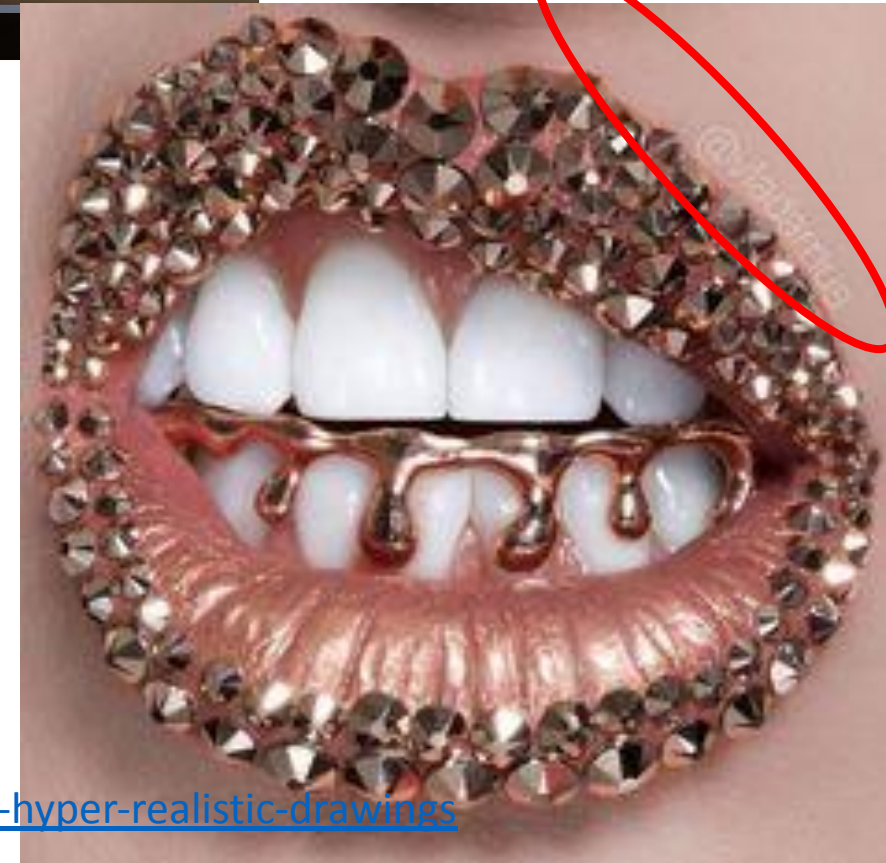
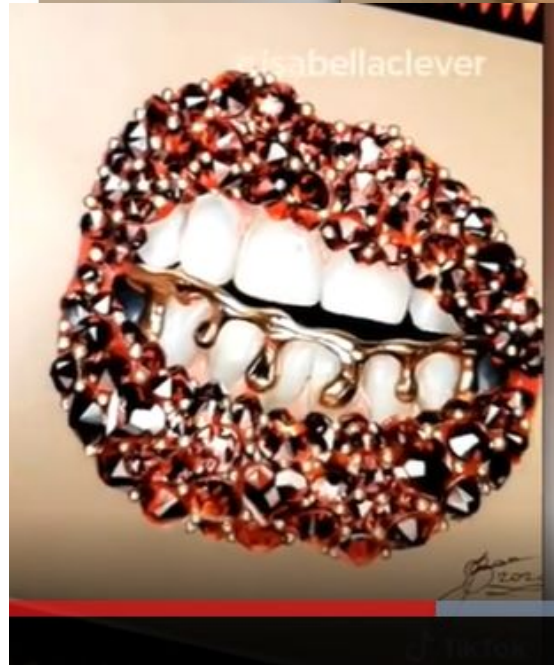
Found on Pinterest - clearly copyright protected



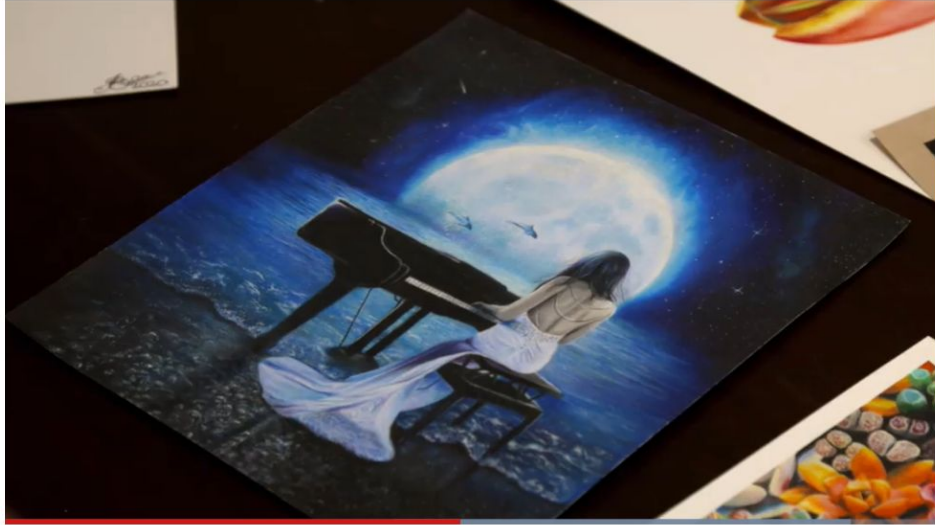
 Katarína Bugriová saved to Animal

A young artist is making waves on social media for artwork so realistic, people are questioning whether she did it - and she's just 12 years old.

- [@vladamua copyright](#) symbol is clearly watermarked on the image
- Vlada Haggerty is a cosmetic artist, photographer, and lip artist.
- Vlada's lip art photography is sold around the world.
- She would have a very good chance of pursuing court action if permission to use/sell her image has not been sought



A young artist is making waves on social media for artwork so realistic, people are questioning whether she did it - and she's just 12 years old.



This image is clearly derivative from this **copyrighted Deviant Art image** in which the creator themselves credits the creators of the dolphin and model images and expressly states this image is copyright protected.

**Sea-Side-Sonata**  
by [EnchantedWhispersArt](#) + WATCH

★ 335 Favourites    💬 123 Comments    👁 10K Views

IMPORTANT © COPYRIGHT NOTICE: My work may not be reproduced, copied, edited, published, transmitted, uploaded, sold or re-sold in any way without my express permission.

model [pixabay.com/en/](#)  
bg [enchantedwhispersart.deviantar...](#)  
dolphins [Leaping Dolphins by EveLivesey](#)  
my own and painted

IMAGE DETAILS

Image size    700x825px 1.04 MB

Published: Jul 2, 2014

SEARCH AND DISCOVER



# Discussion / research questions:

Who do you think owns each artwork on the previous 3 slides?

How long does copyright on an artistic work last in New Zealand?

Does this young artist need to worry about copyright?

(the work has been reproduced in a different media (coloured pencil) & in a different country (New Zealand) from the original work)

What would be the circumstances in which it is morally and ethically ok to use/sell this work without adversely affecting this young persons reputation as an artist?

## EXAMPLE #1

### Images by artist Jason Levesqu were copied by painter Josafat Miranda

Levesqu spotted this by chance while visiting an exhibition.

He posted the images side by side on Tumblr - the post went viral.

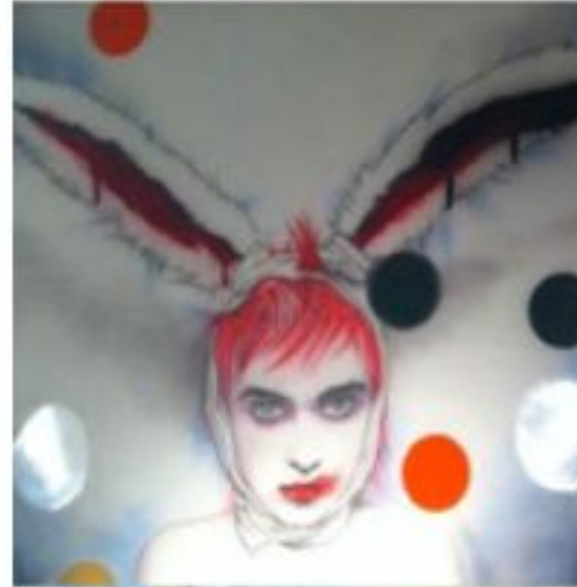
Repercussions for the painter were quick:

‘within days, Robert Fontaine Gallery had pulled his work, canceled his pending sales, dropped him from its roster, and denounced him.’

‘Miranda told the Miami New Times. “I don’t have a gallery. I don’t have a job. I don’t have any way to make money ... Now nobody wants to buy my work, even though most of it isn’t a copy of anything.”’

<https://hyperallergic.com/62026/when-is-appropriation-just-copying/>

Josafat Miranda  
<http://www.flickr.com/photos/josafat-miranda>



Jason Levesque  
<http://stuntkid.com>





## EXAMPLE #2

### Established painter found guilty of plagiarism

Luc Tymans was found in breach of photographers copyright

The court had ruled that if he exhibits this painting or creates others like it he could be fined up to \$577,000



Side by side. Tsymans' painting and Van Giel's Photo.

<https://www.plagiarismtoday.com/2015/01/21/artist-iuc-tsymans-loses-plagiarism-case/>

- <https://www.diyphotography.net/painter-found-guilty-plagiarism-painting-photo/>

# EXAMPLE #3

## Clothing designer uses artwork without permission on clothing

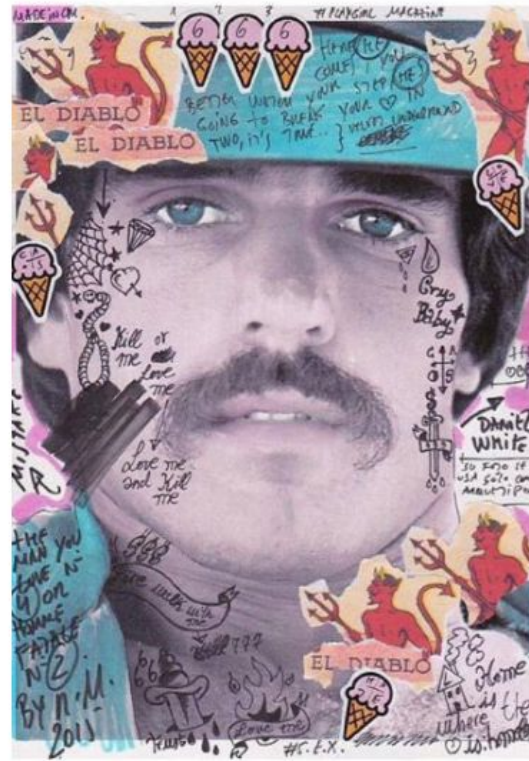
- <https://news.artnet.com/art-world/vivienne-westwood-artist-roberta-marrero-722621>

Law

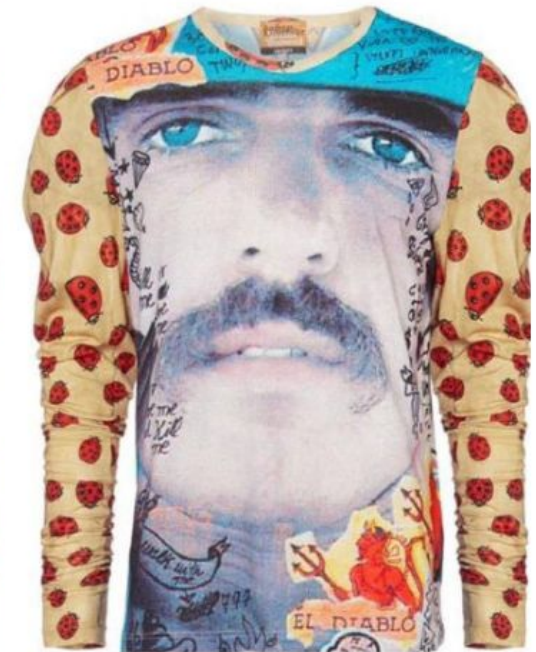
## Vivienne Westwood Accused of Plagiarizing Artist's Design

The score was settled thanks to outraged posts on social media.

Alyssa Buffenstein, October 27, 2016



HOME • VIVIENNE WESTWOOD • MENS, WOMENS, UNISEX • CLOTHING • DIABLO T-SHIRT



‘Thierry Guetta, who was made famous by being the centerpiece of Banksy’s *Exit from the Gift Shop* documentary, has **failed to persuade a judge that his artwork** does not infringe on the photograph by Glen E. Friedman of the band Run DMC. You can see Friedman’s work and then two of Guetta’s works below’

<https://www.techdirt.com/articles/20110607/22123814604/another-appropriation-artist-loses-copyright-lawsuit-are-we-nearing-end-appropriation-art.shtml>



## Popular street artist does not ‘lose ‘ court case but settles at a loss with sanctions.

‘he settled his civil case with the AP on unfavorable terms that included sanctions. The government outlined in its court papers that the deal required Fairey to pay the AP \$1.6m, with an insurance company contributing about \$450,000 of that amount.”

“Fairey maintained he transformed the AP's image enough to constitute a fair use of the work under copyright law.”

He was also sentenced to fines, probation and community service for misleading the court by destroying/altering documentation.



image fromWired.com article

<https://www.wired.com/2011/01/hope-image-flap/>

[https://cyber.harvard.edu/people/tfisher/IP/Hope\\_Poster\\_Case\\_Study.](https://cyber.harvard.edu/people/tfisher/IP/Hope_Poster_Case_Study.)

<https://www.theguardian.com/artanddesign/2012/sep/07/shepard-fairey-sentenced-obama-hope-poster>

EXAMPLE #4 Photographer appears to copy compositions and subject matter of a range of other photographers and is called out on social media

Left photo: Tyler Shields, 2011. Right photo: Guy Bourdin, 1979



<https://art-sheep.com/is-celebrity-photographer-tyler-shields-copying-other-artists/>

Example #5 Jeff Koons loses copyright battles (over and over again!)

Try researching a few of his cases.

- <https://modernartisrubbish.com/fair-use-or-foul-artist-in-copyright-court-mair18/>



Fair Use? Left image by Art Rogers right image by Jeff Koons

# How does it affect artists in Aotearoa?

“Taupo Artist Melissa Wallace feels her "soul has been ripped out" by an online Trade Me store”.

- <https://www.stuff.co.nz/business/industries/76144142/taupo-artist-shocked-by-trade-me-copies>
- "I sell some of my work for \$2000 so what happens if people go online and see the exact image being sold for \$2? All my ideas are copyright to me, I am just like a songwriter or brand and it is ruining my reputation," she said.
- Portion of article photograph by Luke Kirkeby for Fairfax NZ



## NZ sculptor Paul Radford has image of his work reproduced without permission by clothing retailer

10 Jun, 2005 08:14 AM

© 2 minutes to read



Sculptor John Radford is upset his Western Park creation has appeared on a retailer's T-shirts without permission. Picture / Kenny Rodger

- The [H&M Controversy](#) similar to court action between NZ sculptor John Radford ([T-Shirt Design angers artist](#)) and the then Hallensteins Bros. in 2009. This Listener article [Stealing Beauty](#) outlines the dispute and this summary by [Queen's Counsel](#) of Andrew Brown Radford V Hallenstein Bros. This found a loophole in copyright law allowing for the reproduction of public sculptures for profit.
- It is the subject of this 2017 award -winning research paper by Auckland Law student - ['Copyright and Street Art](#) by Seira Shin-Clayton



<https://www.stuff.co.nz/entertainment/arts/79962474/frizzell-vows-to-take-legal-action-after-finding-fakes-on-trade-me>

- Kiwi artist Dick Frizzell is in a legal stoush with a man who he alleges has been copying his work.
- It's believed the man, a "reputable framer", has been taking photographs of Frizzell's famous prints and selling them on Trade Me as licensed products.
- Portion of article photograph by John Selkirk



# Current internationally...

Banksy's identity could be revealed in upcoming court case

<https://www.stuff.co.nz/entertainment/arts/300349177/banksys-identity-could-be-revealed-in-upcoming-court-battle>

Banksy has said that “copyright is for losers”

# Encouraging ethical use of images

Many schools now teach this as part of digital citizenship courses.

NZQA on authenticity: “Students often incorporate copyrighted visual images in the form of photographs, photocopies, advertisements, etc into their work. This can usually be argued as “fair use” where it supports a particular genre or artist model, but there will be instances of blatant copyright infringement where the integrity of the student and ultimately the teacher are compromised. NZQA are simply seeking to help preserve the integrity of NCEA by including students in the authenticity declaration. After all, in some cases it is the student who can only answer this question. “

Here are some interesting links to consider as our students may become practising artists in a world of litigation and lawsuits:

- [5 Lawsuits that could reshape the artworld 2018](#)
- Stop Copying Me - [Appropriation in Art](#)
- Practice of Art 8 - Lecture 6: [Appropriation, Recontextualising](#)
- Copyright and Appropriation Art: [Recent Legal Controversies](#) - William Landes and Anthony Hirschel
- When Is [Appropriation Just Copying?](#)
- Copyright and the [Work of Art in the Age of Mechanical Reproduction](#): Eric Doeringer at TEDxChelsea
- Artist Luc Tuymans [Loses Plagiarism Case](#), Raises Questions
- When “[Hope](#)” Becomes “[Nope](#)” – Copyright Infringement
- Another Appropriation Artist [Loses Copyright Lawsuit](#); Are We Nearing The End Of Appropriation Art?
- Life Hacker - [When can you use an image?](#) - rough guide to copyright
- [Using Google search tools](#) to avoid violating copyright

# Cultural Appropriation:

- [Chch gallery](#) pulled artwork...after cultural appropriation complaints
- [What's wrong with cultural appropriation.](#)
- Opinion article [‘You can't copyright culture, but damn I wish you could’](#),
- [Art and education encounters with self and others](#) - early childhood paper - Janine Visser
- [The dilemmas of bicultural education policy in art education practice in Aotearoa New Zealand](#) - Jill Smith
- [Australian Government protocols](#) for indigenous art and artists.
- How to teach culture (sic) [with integrity in the artroom.](#)
- [How to avoid cultural appropriation in your \(art\) lessons](#)
- [NZIPO-](#) concepts to understand
- Cultural appropriation, [what's an educators role?](#)
- [More than a koru, part four:](#) What role does Māoridom play in New Zealand's design identity?
- [The Resurgence of Maori Art:](#) Conflicts and Continuities in the Eighties -Jonathan Mané-Wheeki paper available with school login to JSTOR

# The law:

- What do I do if someone makes a painting of my photograph?
- <https://thelawtog.com/someone-makes-illustration-painting-based-photograph/>
- <https://99designs.com/blog/tips/that-little-a-quick-guide-to-copyright/>
- intensive lecture [copyright for Photographers](#)

# Appropriation in art

- [https://issuu.com/captcurk/docs/appropriation\\_in\\_art-an\\_overview-co](https://issuu.com/captcurk/docs/appropriation_in_art-an_overview-co)

A great online booklet by Frank Curkovic

[Beg, Borrow, Steal:](#) With Several Exhibitions Involving Appropriation, New York Has a Second 'Pictures' Moment

