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PROJECT

Graffiti - A Hard Case That Makes Bad Law

This project focuses on graffiti - paintings made on publicly visible surfaces, typically without permission of the property owners. The painting of graffiti is a criminal offense and a phenomenon that many cities fiercely fight. At the same time, such paintings are often recognized as art and perceived as important sites of interest. This project will assume that graffiti is a meaningful form of artistic expression that should be given proper public space. The aim of this project is to suggest a legal model that would adequately serve this goal.

The project will gather empirical data on the various motivations of graffiti artists, the social norms in this field, and the dynamics of its development. It will critically examine the existing legal regulations concerning graffiti in the light of this empirical data. Philosophical and legal theories about common spaces for free expression - such as Habermas's concept of an "ideal speech situation" - will serve as a basis for an alternative legal framework for graffiti. Combining empirical and theoretical insights, this framework will secure common spaces for free artistic expression, for creativity without prospect of gain, art for the sake of art.

Recommended Reading

Assaf Zakharov, Katya, and Tim Schnetgoeke. "Reading the Illegible: Can Law Understand Graffiti?" Connecticut Law Review 53 (forthcoming). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3576465.

Assaf, Katya. "Capitalism vs. Freedom." New York University Review of Law & Social Change 38, 2 (2014): 201-268.

-. "Magical Thinking in Trademark Law." Law & Social Inquiry 37, 3 (2012): 595-626.

(Un)Official Cityscapes: The Battle over Urban Narratives

The visual design of urban public spaces ("cityscapes") has an important impact on city life - it can channel interpersonal communication in certain directions while excluding others; it can powerfully communicate notions of what is socially acceptable or important. Yet, while everyone can access cityscapes, they are designed by a very limited social group, consisting pre-dominantly of property owners, politicians, and commercial enterprises.

In our talk, we will focus on the narratives embedded in cityscapes. Analyzing legal conflicts arising around expressions that seek their way into the shared visual environment, as well as expressions whose presence in the cityscapes is disputed, we trace the dynamics of battles over urban narratives.

We supplement the discussion of legal rules with photographs. Rather than only illustrating the text, the photographs will supplement the discussion with their own stories, offering the reader a visual tour through the narratives of urban public spaces.

Our inquiry has revealed that several narratives - such as consumerism and patriotism - are constant winners in the battles over cityscapes, whereas others - such as social and political critique - are always losers. This situation is unjustified. Cityscapes are important media of communication that should be used to develop a meaningful democratic discourse, rather than buttressing widespread views. We suggest redefining the boundaries of property rights in a way that would disconnect real estate ownership from the right to design shared public spaces. Visible urban surfaces will then be used as a medium of free expression, creating cityscapes as ever-evolving collages of the residents' expressions.

PUBLICATIONS FROM THE FELLOW LIBRARY

Assaf-Zakharov, Katya (Buffalo, NY,2020)

Reading the illegible : can law understand graffiti?

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1724285459>

Assaf-Zakharov, Katya (2019)

Work, identity, and the regulation of markets : a study of trademark law in the United States and Germany

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1728806453>

Assaf-Zakharov, Katya (2019)

§ 6 Intellectual property law

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1726687422>

Assaf-Zakharov, Katya (New York, NY,2017)

Of patents and cobras : exposing the problem of asymmetry

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1724281569>

Assaf-Zakharov, Katya (Tuscaloosa, Ala.,2016)

Bying goods and doing good : trademarks and social competition

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1726689964>

Assaf-Zakharov, Katya (Oxford,2015)

Der Zauber der Marke : ein anthropologischer Blick auf das Markenrecht – zugleich ein Vergleich mit dem US-amerikanischen Recht

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1724286595>

Assaf-Zakharov, Katya (New York,2015)

Capitalism vs. freedom

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1724278525>

Assaf-Zakharov, Katya (Cambridge,2011)

Magical thinking in trademark law

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1724279165>

Assaf-Zakharov, Katya (Buffalo, NY,2010)

Brand fetishism

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1726689239>

Assaf-Zakharov, Katya (Concord, NH,2008)

The dilution of culture and the law of trademarks

<https://kxp.k10plus.de/DB=9.663/PPNSET?PPN=1728954142>