



a *de minimis* defense grows in brooklyn: display of street art in action movie not infringement

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On March 30, 2020, in *Blaney, et al., v. XYZ Films, et al.*, the U.S. District Court for the Eastern District of New York dismissed copyright infringement and false endorsement claims arising out of the depiction of a well-known Brooklyn mural in the dystopian, thriller motion picture *Bushwick*. While the defendants undeniably filmed, and thus reproduced, the mural in the motion picture, the court held that such copying was both *de minimis* and fair use and therefore not copyright infringement. In dismissing the false endorsement claims, the court determined that the defendants' use of the mural created little risk of confusion that the murals' creator and subject, both peace activists, endorsed the defendants' motion picture.

The decision bolsters the ability of movie and TV production companies to depict, accurately and briefly, iconic or well-known community sites as part of background "establishing shots." Meanwhile, the outcome might inject some uncertainty into whether artists can pursue licensing revenue for works depicted in those films and TV shows.

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