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Basquiat Soundtracks (Paris) + Basquiat x Warhol : à  
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# *A plein volume : Basquiat et la musique (Montréal) ; Basquiat Soundtracks (Paris) + Basquiat x Warhol : à quatre mains*

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- 1 Two landmark Jean-Michel Basquiat exhibitions in Paris made visible and legible an essential facet of his work that has remained largely hidden: his obsessive and astounding investigations into intellectual property (IP) law, especially its overlaps with cultural appropriation. The most basic proof can be tabulated numerically. Within the works gathered in *Basquiat x Warhol : à quatre mains* at the Fondation Louis Vuitton and *A plein volume : Basquiat Soundtracks (Paris)* at the Paris Philharmonie<sup>1</sup>, Basquiat inscribed more than sixty trademark™ and registered trademark® symbols and several times as many copyright© symbols. The words and phrases in which he implies some kind of intellectual property range from the banal (“DOGFOOD™”) and the cryptic (“FUEGO™” and “FIRE™”) to the historically laden (“PREE©™” and “BOPKING™” – both references to Jazz legend Charlie Parker) and combustible (“COLONIALISM™©” and “Negress™©R.SGS.™K”). Despite their ubiquity and potency – the hundreds of IP symbols in the two exhibitions comprise but a fraction of the IP symbols scattered throughout Basquiat’s *œuvre* – these symbols and IP more broadly have garnered almost no sustained attention from Basquiat critics or scholars, including the otherwise illuminating catalogues that accompany the exhibitions. It is this nexus of art, intellectual property, and cultural appropriation in Basquiat’s work that I hope to begin to elucidate in this review.
- 2 First, a short primer on IP law. As I argue in my larger projects on *Art™: A History of Modern Art, Authenticity, and Trademarks*,<sup>2</sup> copyrights and trademarks differ fundamentally. For the purposes of this review, we need only note that copyright inheres in expressive works, like paintings or music recordings. Trademarks, by contrast, indicate the source of commercial products. By the 1980s, copyright© symbols

were no longer required to secure copyright protection; trademark™ symbols necessitated no government certification; but registered trademark® symbols required official registration with the U.S. Patent and Trademark Office. All three symbols make propriety claims on the images, words, music, logos, names, forms, etc., to which they are affixed.

- 3 In terms of trademark law, there is no better foil to Basquiat than Andy Warhol. Around the time he met Basquiat, Warhol successfully registered his own name as a trademark – a first in the history of art. But the only registered trademark® signs in Warhol’s work belong to the trademarked logos of actual products, such as the ® symbols that regularly accompany the Arm & Hammer logo in works like *Arm and Hammer II* (1984-85), jointly executed with Basquiat, with which *Basquiat x Warhol : à quatre mains* opens. Warhol’s trademark symbols are real and appropriated directly from the products themselves. For Basquiat, by contrast, trademarks and other IP symbols are not operative; rather, they are objects of interrogation. In recent years, the Basquiat estate has trademarked his name, his crown, and other signature motifs, as part of its highly successful branding and merchandizing strategy, evident in every Basquiat exhibition gift shop (including that of the Fondation Louis Vuitton, funded by multi-billion-dollar trademarks like *LV*); but in his lifetime, Basquiat never registered any trademarks or copyrights. Even as Basquiat introduced copyrighted and trademarked subjects into his works – mostly and importantly, through Xerox photocopies – the vast majority of his trademark symbols are affixed to words and phrases that fly in the face of traditional commercial products or branding. His most famous use of the copyright sign – as part of the graffiti tag employed by him and Al Diaz: “SAMO©” – was legally nonoperative: American law grants no copyright protection for illegal works, including unauthorized street art.
- 4 How might we begin to make sense of Basquiat’s innumerable, varied, and at times explosive uses of trademarks and other IP symbols? At least one critic surmised that Basquiat’s pervasive use of copyright and trademark signs was an effort to protect Black cultural production from rampant appropriation. For good reason, IP signs figure prominently in Basquiat’s collaborations with the vastly more established Warhol. Yet Basquiat’s obsessive IP symbols tend to amass more forcefully elsewhere, for example, around Charlie Parker and his circle. It is no coincidence that Basquiat’s intervention into the Arm & Hammer logo silkscreened by Warhol involved the obliteration of the name, image, and registered trademark sign of the corporation in order to reconfigure it as a commemorative penny, featuring jazz legend Charlie Parker and his saxophone, dated 1955 (the year of Parker’s death) and inscribed with the word LIBERTY©, with the copyright symbol and much else crossed out. Infamously, Parker died destitute in part because he “failed” to secure the copyright to his own music. Throughout his *œuvre*, Basquiat endeavored to secure Parker’s intellectual property, retroactively and symbolically, through every available intellectual property sign affixed to a host of names for Parker, his music, and members of his circle, including seemingly endless iterations of “PARKER©” “BOP KING™”, “PREE©™®”, “Now’s the Time©”, and more. These IP symbols do not redress so much as condemn the unbridled appropriation of Parker’s art and livelihood and, by extension, that of innumerable other African American artists. Early and publicly, Basquiat confronted the profound, disturbing, and enduring truth of economic and cultural appropriation of Black culture. But he simultaneously endeavored to paint a more complex picture.

- 5 In Basquiat's own life and times, the problem was not too little intellectual property protection, but too much: hip-hop music, a form built up on appropriated snippets, was torn down by IP law. Public Enemy's album *It Takes a Nation of Millions to Hold Us Back* (1988), with hundreds of appropriated samples, was a highpoint and end to this moment in hip-hop. The 1991 court case *Grand Upright Music, Ltd. v. Warner Bros. Records Inc.* ruled that musical sampling without permission constituted copyright infringement and hip-hop was forced to abandon its collage aesthetic.<sup>3</sup> But not Basquiat. As *Basquiat Soundtracks (Paris)* strikingly demonstrates, Basquiat's fecund inclusion of Xerox photocopies was his visual answer to hip-hop musical sampling. In works like *Toxic* (1984), a monumental portrait of his close friend Torrick Ablack (the post-graffiti painter and DJ known as Toxic), he collaged not a wall of sampled sound so much a wall of Xerox-corporation photocopies, including copyrighted images and trademarked logos (such as Warner Brothers' "W-B" and "Pabst Blue Ribbon™"). As he did with Charlie Parker, Basquiat heroized Toxic as a lion of authentic Black culture under threat. But whereas intellectual property was a hypothetical solution to the problems faced by Charlie Parker ("BOP KING™", "PREE©™®"), copyright and intellectual property were the problem for artists like Toxic and Public Enemy. The genius of *Basquiat Soundtracks (Paris)* was to track Basquiat's complex ethical, legal, and formal relationships to appropriation by way of his relationships to music, above all, jazz and hip-hop. And these relationships proved wondrously complex. Basquiat advocated neither for absolute property rights in culture – the downfall of musical sampling in early hip-hop – nor for total rejection of intellectual property rights – the downfall of Charlie Parker. Basquiat's complex negotiation of excessive and insufficient intellectual property is visible throughout *Basquiat Soundtracks (Paris)* but perhaps nowhere more pointedly than in the triptych *Negro Period* (1986): its right panel occupied by a solitary Black figure, its central and left panels a panoply of photocopies that sample a history of jazz, African diaspora, and art, as mediated by photocopies. Read discerningly, Basquiat's textual scrawls and preferred technological medium spell out a truth evident throughout his *œuvre*: "BOP KING™", "PARKER©", "XEROX CORPORATION", "BRAND": Basquiat asserts the intellectual property of Charlie Parker through the proprietary medium of Xerox Corporation brand photocopies. Without Xerox™, there's no Parker©.
- 6 We return to *Arm and Hammer II*, the opening image of *Basquiat x Warhol : à quatre mains* and recognize it as the unintentional emblem for the two exhibitions. Warhol silkscreened two Arm & Hammer logos. Basquiat left one logo perfectly intact. This was Warhol's domain. Gold ground, real logo, real registered trademark sign. Basquiat remade the second logo as his own. He transformed a corporate logo into a commemorative penny for a jazz legend. The victory is not pecuniary – no more than one cent – but rather symbolic. But the symbol that would secure the victory, the corrective to Warhol's (and Arm & Hammer's) registered trademark, is not merely Basquiat's (and Charlie Parker's) copyright. It is a copyright symbol under erasure: ©.
- 7 Warhol (and the Andy Warhol Foundation) tested the boundaries of copyright and intellectual property through successful trademark and copyright registrations, out-of-court settlements, wildly successful branding, and, most recently, with a loss before the U.S. Supreme Court. Basquiat tested the vastly broader boundaries of proprietary culture. He depicted numerous intellectual property symbols but registered no trademarks; he regularly asserted and challenged the proprietariness of culture, Black or otherwise. Warhol folded legal trademarks, real brand endorsements, and actual

lawsuits into his art and life. Basquiat made the representation and interrogation of trademarks, proprietary culture, and their inherent contradictions a centerpiece of his work. If we were to reduce two infinitely complex negotiations of intellectual property to a simplistic formula, it might look like this: Warhol® vs. Basquiat™.

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## NOTES

1. *Basquiat x Warhol : à quatre mains* travels to the Brant Foundation in New York. *Basquiat Soundtracks (Paris)* originated at the Musée des Beaux-Arts, Montreal, as *A plein volume : Basquiat et la musique*.
2. As I work to complete the book, see Noam M. Elcott, "The Manufacturer's Signature: Trademarks and Other Signs of Authenticity on Manet's Bar at the Folies-Bergère", *Grey Room*, no. 94, Winter 2024, p. 114-63; Noam M. Elcott, "Kubism™", *Arts*, vol. 12, no. 5, 2023. The book's third chapter focuses on Warhol; its fourth chapter on Basquiat.
3. The full rearguard legal reckoning would not arrive until the 1990s. But legal threats hung over hip-hop throughout the 1980s. See Andre L. Smith, "Other People's Property: Hip-Hop's Inherent Clashes with Property Laws and Its Ascendance as Global Counter Culture," *Virginia Sports and Entertainment Law Journal*, vol. 7, no. 1, Fall 2007, p. 69-74.