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Second-Order Work Carriership — Consolidated Version

Photography as the Surviving Carrier of Ephemeral Art. Case study, legal framework and delimitation

Syntagma Forschung Wien · COOP-PROV0001 · Version 1.8 · 2026-10-06

Generated file. Do not edit by hand; the sources are the individual papers in `03_FACHPAPIERE`.

Preface

This consolidated version brings together three working papers and two appendices produced between 23 and 24 September 2026. They can be read and cited individually; the compilation serves continuous reading.

Subject. What happens to the concept of the work when the work exists for a shorter period than the attention directed at it? The case through which the question is pursued here is the photographic documentation of painted New York subway cars between 1978 and 1985 and its publication in 1984. The finding reaches beyond that case: it concerns any made thing whose material carrier disappears by design — stage sets, exhibition builds, intermediate construction states, functional prototypes.

Structure.

PART	SUBJECT
P1 — Second-Order Work Carriership	Concept, question of genre, evidence scale E0-E4, reduction to the p/6 asymmetry
P2 — Two Rights in One Image	Legal framework in the USA, EU, Austria and Germany; freedom of panorama, VARA, the scene name as author designation
P3 — Document and Event	Delimitation against the performance-documentation debate; market, reception, Viennese connection
A1 — Chronology	documented dates 1943 to 2026
A2 — Literature	shared bibliography with source-quality grades

What this work does not contain. It reproduces no photographs and no reproductions of the works described. Two legal positions coexist in any such photograph, and freedom of panorama carries the holding only in part. The reasoning is in P2. The omission is part of the method: whether an image functions as a work carrier is a question of its function, not its appearance, and can therefore be discussed without presenting the image.

What changed between versions. Version 1.0 of 23 September 2026 asserted that Austrian freedom of panorama does not apply to painted vehicles because of their mobility. That is incorrect and is withdrawn; the decisive points are not mobility but the requirement of permanence and the place of capture. Also withdrawn is the assumption that the documented practice was untouched by its documentation. Both corrections are marked in place; they are not silently incorporated.

Source-quality grades. Every statement is assigned one of four grades: A for primary sources, case law and peer-reviewed literature; B for journalistic and institutional sources; C for scene sources; D for unverified material. Grade D carries no claim in this work. Three widely circulated statements about awards were excluded on that basis; details in the package’s verification protocol.

A note on language. The work appears in German and English. Technical terms introduced in only one language appear in the original in both versions.

Second-Order Work Carriership

Photography as the Sole Surviving Carrier of Ephemeral Art — The Martha Cooper Case

Working paper COOP-PROV0001-P1, version 1.2, 5 October 2026

Changes from version 1.0. The term is now expressly carried as a coinage and delimited in section 6.5 against the performance-documentation debate (developed in COOP-PROV0001-P3). The assumption that the documented practice was untouched by its documentation is withdrawn (new section 4.3). The claim on stylistic dissemination is qualified for Vienna. The research gaps in section 10 are recast. The legal conclusion follows the correction in COOP-PROV0001-P2 version 2.0.

Abstract

When an artwork is destroyed within days while its photographic record circulates for decades, the question of the work carrier shifts. This paper develops the concept of **second-order work carriership**: the condition in which the photograph, rather than the material original, assumes the functions art history normally assigns to the work itself — datability, attributability, comparability, canonical standing and marketability. The case study is the work of documentary photographer Martha Cooper, in particular her photographs of painted New York subway cars between 1978 and 1985.

The paper does three things. First, it settles the question of genre and shows that neither photojournalism nor street photography holds, whereas a documentary practice with an ethnographic foundation does. Second, it proposes an **evidence scale E0-E4** that makes the degree of carriership testable and that has been implemented as the data model of an accompanying tool. Third, it links the case to the strand's theoretical framework, the $\rho/6$ risk-disposition asymmetry (FORSCH-0083): the maker of the ephemeral work bears the risk, the documentarian holds the durable asset.

1. Research question

Art-historical description normally presupposes an accessible original. In the case of ephemeral art — painted vehicles, works on walls in public space, temporary installations, memorial walls — that original is as a rule no longer present by the time scholarly attention arrives. What remains is a body of photographs compiled not by the makers of the works but by third parties.

Four questions follow:

1. **Genre.** Into what category does a photographic practice fall whose subject is the work of others?
2. **Carriership.** Under what conditions does the photograph assume the function of the work carrier, and how can that transition be described in a testable way?
3. **Attribution.** To whom is the resulting image attributed — to the maker of the depicted work, to the photographer, to both?
4. **Asymmetry.** How are risk and return distributed between maker and documentarian?

The paper answers questions 1 and 2 in detail, sets out the situation for question 3 (developed in COOP-PROV0001-P2) and traces question 4 back to the FORSCH-0083 theorem.

2. Subject and delimitation

The subject is the work of Martha Cooper (born 9 March 1943 in Baltimore, Maryland). The narrower period under examination runs from 1977 to 1985; the wider frame extends to the present.

Timeline 1943 – 2026

Evidenced years only. Disputed dates are noted in the fact check.

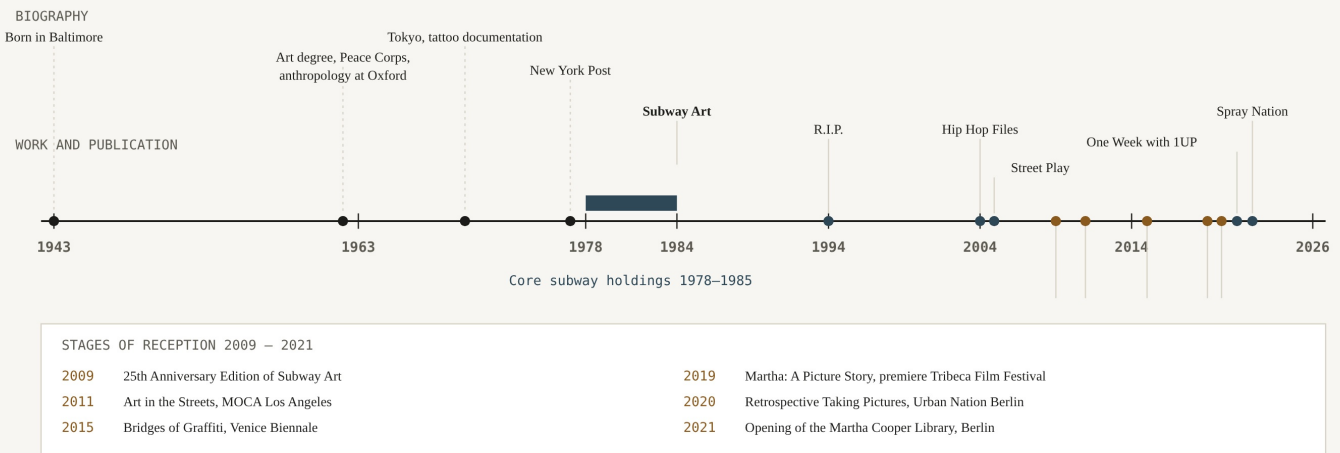


Figure 3 – Chronology 1943 to 2026. Documented stations in life, work, reception, case law and the history of the concept.

Not covered by this paper:

- aesthetic evaluation of individual depicted works,
- the social history of New York subcultures of the 1970s and 1980s as a subject in its own right,
- biographical reconstruction beyond what the argument requires.

No image reproduction. The paper reproduces no photographs. Rights in the photographs rest with the photographer, rights in the depicted works with their makers. The argument rests on work data, description and documented sources. This is part of the method rather than a limitation: whether an image functions as a carrier can be discussed without presenting the image, because it is a question of function and not of appearance.

3. Definitions

Work. The materially executed piece regarded by its maker as complete — in the case of painted cars, the painted vehicle in its finished state.

Work carrier. The object through which the work can be perceived, dated, attributed and compared. Normally work and carrier coincide.

Second-order work carriership. The condition in which a medium separate from the act of making — here photography — assumes the carrier function fully or predominantly because the original no longer exists. The term is descriptive, not evaluative: it says nothing about whether the photograph does the work justice.

The term is a coinage. A check of art-historical, media-studies and conservation literature produced no evidence of prior use. It is introduced here, not adopted. The delimitation against existing terms is in section 6.5 and in full in COOP-PROV0001-P3.

Second-order authorship. Authorship of an image whose subject is another person's work. It is distinct from, and in tension with, authorship of the depicted work.

Ephemerality. The short lifespan of the work, whether inherent or externally imposed. In the works examined here, removal by the transit operator was the norm; lifespans were frequently measured in days.

Documentary practice. A methodically consistent photographic activity sustained over long periods with the declared purpose of preservation. It differs from commissioned journalism in its independence from occasion, and from street photography in its commitment to a defined subject.

4. The case

4.1 Preconditions of the working method

After an art degree at Grinnell College, Cooper took a diploma in ethnology at the University of Oxford, having previously served as a Peace Corps volunteer in Thailand. She has repeatedly stated the resulting working principle: art is to be viewed in the context of the culture that produces it. This principle explains the most conspicuous formal property of her photographs — the inclusion of the surrounding space.

From 1977 she worked as a staff photographer at the *New York Post*. The long-term documentary work developed alongside and later in place of that employment.

4.2 Access

Access to the scene did not come through the subject of graffiti but through an earlier project on children in street space. One of the young people she had photographed introduced her to one of the then leading writers, who was the first to allow her to photograph the act of painting itself.

The load-bearing mechanism was an exchange relationship: for the maker, the photograph was often the only record of a work removed within a few days. Cooper has expressly named this mechanism in interviews as the reason for her acceptance, noting that she returned prints to the makers where possible.

Research relevance. This exchange relationship is the point at which second-order carriership can be grasped empirically. It is not an interpretive overlay supplied later by art history; it was known to the participants at the time and guided their conduct.

4.3 Camera-aware production

Version 1.0 of this paper assumed that the documented practice was untouched by its documentation. That is withdrawn. Jacob Kimvall shows that the documentation of graffiti shaped the practice in a reciprocal relation; makers increasingly worked in the knowledge that photographers were present.

Three observations from the holding itself support this: portraits before one’s own work are posed and presuppose arrangement; messages left on the photographer’s answering machine make the photograph a planned component of the process; and the participants knew that only the photograph would remain.

Production was therefore neither intended for the camera nor independent of it. This paper calls that intermediate state **camera-aware, not camera-directed production**. It matters for the assessment of the asymmetry in section 6.4: documentation is not added afterwards but belongs to the conditions of origin.

4.4 Formal characteristics

The photographs follow a small set of recurring pictorial formulas:

FORMULA	DESCRIPTION	FUNCTION
Car in context	Painted vehicle in the urban landscape, often from an elevated position	Context preservation, ethnographic record
Car in motion	Moving train, blur accepted	Record of the in-use state
Maker before own work	Portrait on site	Attribution, personalisation
Working process	Hand, can, wall detail	Record of procedure
Child on vacant lot	Play situation in damaged urban space	Antecedent work complex, framing
Memorial wall	Frontal view of the wall piece	Devotional function, folkloric record

Two technical decisions deserve mention. First, work in colour, predominantly on reversal film, where the older social-documentary line worked in black and white. Second, a shooting method that took account of the position of the sun: Cooper distinguished between the side of a train favourably lit in the morning and the one favourably lit in the afternoon, so as to avoid shooting into the light.

Distinction from the parallel documentation. Henry Chalfant, with whom the joint publication appeared in 1984, pursued the opposite method: frontal images of whole cars taken from the platform in sections and subsequently assembled. The result is a faithful reproduction of the work without surrounding space. Cooper and Chalfant thus supply two methodically distinct carrier types: the context-preserving and the reproduction-accurate. Canon formation required both.

4.5 The 1984 publication as a vector of dissemination

The joint book appeared in 1984 with Thames & Hudson (London) and Henry Holt (New York). According to a 2009 report in the *New York Times*, sales stood at roughly half a million copies. A locally bound, illegal and short-lived practice was thereby transferred into a durable, internationally available and freely copyable format.

This process is the central art-historical finding of the case: **stylistic dissemination proceeded through second-order**

carriers rather than through the works themselves. Anyone in São Paulo or Melbourne who adopted the New York style in the late 1980s had as a rule seen not a work but a book.

Qualification. The sentence does not hold everywhere. For Amsterdam and Britain the book’s effect is documented; for Vienna it is not. There, a 1984 exhibition with visiting New York writers and a tram legally painted in the New York style produced the connection to the practice. Routes of dissemination must therefore be surveyed city by city rather than generalised; details in COOP-PROV0001-P3, section 6.

5. Lineages and the comparison with Brassai

Cooper stands in a recognisable line of social documentary photography in New York — Jacob Riis, Lewis Hine, the Photo League, Helen Levitt with her photographs of children at play, Bruce Davidson with his 1980 subway work. The most instructive comparison, however, is with Brassai.

From the 1930s onwards Brassai photographed Parisian wall markings and assigned them to a typology of his own. The works were shown at the Museum of Modern Art in 1956 under the title *Language of the Wall* and published as a book in 1960/61.

DIMENSION	BRASSAI	COOPER
Subject	Scratch, incision, wall trace	Executed work with signature
Maker	Anonymous, not sought	Named, sought out, portrayed
Guiding concept	Find, texture, primordially	Procedure, scene, authorship
Framing	Tight, wall fills the image	Wide, surrounding space included
Colour	Black and white	Predominantly colour
Relation to the scene	None	Exchange relationship, field access
Carrier function	Low — the wall initially remains	High — the work disappears

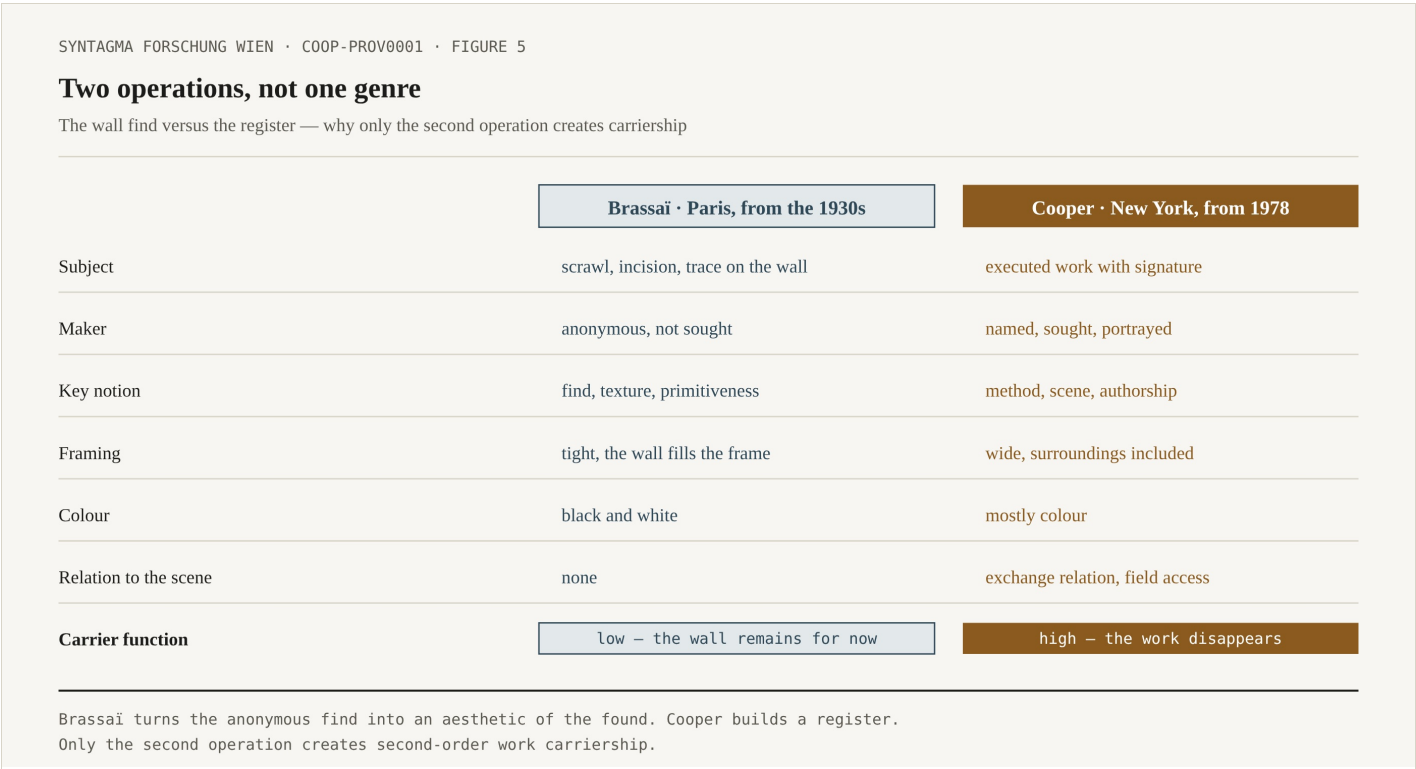


Figure 5 – Two operations, not one genre. Seven dimensions compared; only the second operation produces carriership.

The juxtaposition shows that these are not one genre applied to different subjects but two distinct operations. Brassai transfers the anonymous wall find into a surrealist-inflected aesthetic of the found object. Cooper compiles a register. Only the second operation produces carriership.

6. Theoretical connections

6.1 Reproducibility without an original

Benjamin’s argument on technical reproducibility presupposes an original whose aura is affected by reproduction. In the present case the sequence is reversed: the reproduction outlives the original and takes its place. The question of aura thereby loses its object; in its place stands the question of **carrier fidelity** — which properties of the work a photograph can transmit at all, and which are lost with the original.

Transmissible: composition, colour within the limits of the recording technique, letterform, proportion relative to the vehicle, condition at the moment of exposure.

Not transmissible: surface quality, material application, appearance in passing motion, change through weather and overpainting, acoustic and spatial context.

Second-order carriership is therefore always **partial**. The degree of that partiality is measurable and is operationalised in section 7.

6.2 Field and legitimation

With Bourdieu the process can be described as a shift of legitimation: a practice without institutional recognition gains, through a publishing product, access to fields previously closed to it — the book trade, the library, the museum, the art market. The documentarian acts here as a cultural intermediary in Becker’s sense: she does not make the work, but she makes the conditions of its recognition.

6.3 Tactic and place

De Certeau’s distinction between strategy and tactic applies to both sides. Making the work is tactical: tied to place, limited in time, dependent on a gap in the operating schedule. Documentation is strategic: it builds a holding that becomes independent of place and time. This asymmetry is the core of the following section.

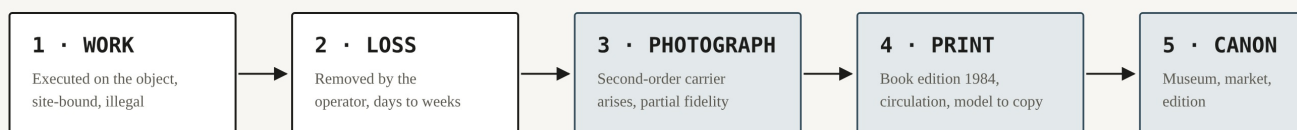
6.4 Connection to FORSCH-0083 (p/δ risk-disposition asymmetry)

The case constitutes a domain instance of the theorem. The risk side (δ) and the return side (p) are borne by different people:

VARIABLE	WORK MAKER	DOCUMENTARIAN
Legal risk	High (criminal damage, trespass)	Low
Physical risk	High (track areas, night work)	Moderate to low
Lifespan of own contribution	Days	Decades
Exploitability of contribution	Low, not tradable	High, tradable
Attribution in the record	Indirect, via the carrier	Direct

The work-carrier chain

From the ephemeral work to the tradable second-order carrier



p / δ – DISTRIBUTION OF RISK AND RETURN (FORSCH-0083)

Maker of the work	δ risk: high	p return: low, not tradable
Documentarian	δ low	p return: high, lasting, tradable

LIFESPAN OF ONE'S OWN CONTRIBUTION

Work	Days
Photograph	Decades – outlasts the cycle of attention the work receives

The asymmetry is a structural property of the constellation, not the result of misconduct.

Figure 1 – The carrier chain. Five stages from work to market, with the distribution of risk and return.

The asymmetry is not the result of misconduct but a structural property of the constellation: whoever makes an ephemeral work cannot themselves generate the durable asset, because that requires equipment, method and a route to market. Appropriation charges regularly raised in the reception therefore address the structure and not necessarily the individual. Whether compensation occurred in a given case — return of prints, naming, a share of proceeds — is an empirical question and is carried in the register (section 7) as a field of its own.

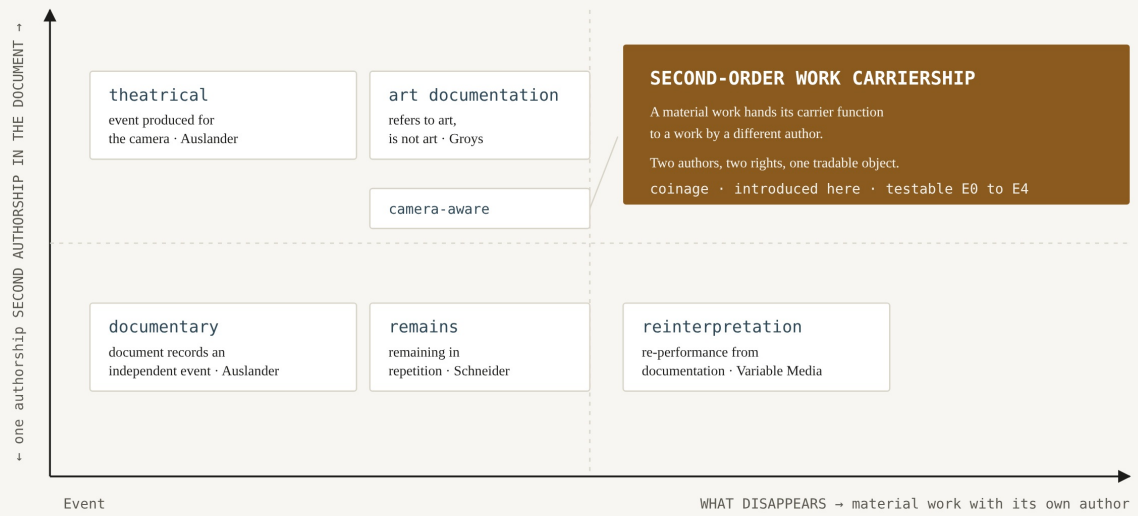
6.5 Delimitation against the performance-documentation debate

The closest developed theory on the relation of a vanished subject to a surviving document is performance theory: Peggy Phelan (1993) on non-reproducibility, Amelia Jones (1997) on experience through the document, Philip Auslander (2006) on the distinction between *documentary* and *theatrical documentation*, Rebecca Schneider (2001, 2011) on remaining through repetition, and Boris Groys (2002) on art documentation. To this is added, from the conservation of time-based art, the Variable Media Approach (2003) with its strategies storage, migration, emulation and reinterpretation.

This literature settles the status of the document but does not fit the present case. In the performance debate an **event** disappears, and its document frequently comes from the same hand or at its behest. Here a **material pictorial work with an author of its own** disappears, and its document comes from a **second author** who acquires a separately exploitable right in it. Performance theory has no term for this doubling of authorship because it does not have the problem; the variable-media approach in turn presupposes restorability, which is precisely what is absent here.

Where the concept sits

Second-order work carriership in relation to established concepts



Performance theory knows no second authorship in the documented object, because it does not have the problem.

The variable-media approach presupposes restorability, which is exactly what is missing here.

The intermediate state "camera-aware, not camera-directed" describes making that plans for documentation without being done for it.

Figure 6 – Where the term sits. Delimitation along two axes – what disappears, and whether a second authorship in the document exists.

That is the gap the term second-order work carriership occupies. The full delimitation table is in COOP-PROV0001-P3, section 2.4.

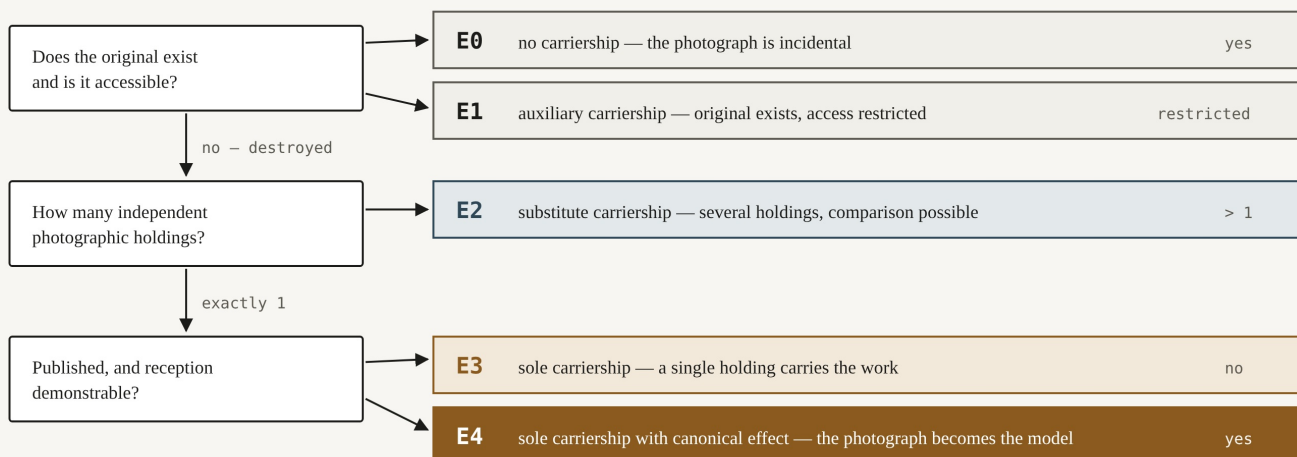
7. Evidence scale of carriership (E0-E4)

To make the claim "the photograph is the work" testable, the paper proposes a five-step scale, assigned per work-photograph pair.

LEVEL	DESIGNATION	CONDITION
E0	No carriership	Original exists and is accessible; the photograph is incidental
E1	Auxiliary carriership	Original exists but is of limited accessibility; the photograph supplements
E2	Substitute carriership	Original destroyed; further independent photographs of the same work exist
E3	Sole carriership	Original destroyed; exactly one body of photographs exists
E4	Sole carriership with canonical effect	As E3, and the photograph was published and demonstrably prompted imitation or reception

Evidence grid of work carriership

Assigned per work–photograph pair · data model of the tool COOP-PROV0001-W1



ATTRIBUTES TO RECORD PER ENTRY

Attribution

legal name · scene name ·
unknown

Carrier fidelity

structure · colour · letterform ·
proportion · condition

Compensation

return · attribution ·
revenue share · open

Rights

right in the work · right in the
photograph · freedom of panorama

Figure 2 – Evidence scale of carriership. Decision path from the question of the original to canonical effect.

Four attributes are carried in addition:

- **Attribution status** — maker documented by legal name / scene name documented / unknown
- **Carrier fidelity** — which of the properties named in 6.1 the photograph transmits
- **Compensation** — whether return, naming or participation is documented
- **Rights status** — rights in the work and in the photograph, licensing position (see P2)

The scale is deliberately built so that it is **not limited to graffiti**. It applies equally to temporary installations, stage sets, festival decoration, workshop set-ups, intermediate construction states and prototypes. This transferability is the reason the accompanying tool is supplied in a sector-neutral version as well.

8. Determination of genre

From the foregoing the classification follows:

- **Photojournalism** does not hold. The works are not occasion-driven, not commissioned and not oriented towards topicality.
- **Street photography** does not hold. The subject is defined and recurring, not incidental.
- **Art photography** does not hold as a governing classification. Pictorial decisions are subordinate to the documentary purpose.
- **Visual anthropology, or documentary practice with an ethnographic foundation**, does hold. Its markers are the defined subject, the long-term design, the field relationship, context preservation and the declared purpose of preservation.

The addition **second-order work carriership** denotes not a genre but a function that accrued to this practice after the fact.

9. The power question and research ethics

The objection that a white photographer documented a practice carried predominantly by Black and Latino young people, and derived lasting benefit from it, is present in the reception and belongs in any treatment of the case. Cooper's own answer, in summary: the scene was mixed from the outset, acceptance into the group depended on skill, her skill was photography, and prints were returned where possible.

What matters for research is that this answer does not dissolve the structural question of section 6.4. It concerns personal

conduct, not the distribution of risk and return. The two questions are to be kept apart. The register (section 7) separates them through the **compensation** field, which is either documented or left open for each work–photograph pair.

Methodological consequence for this strand. Work on ephemeral art must carry the attribution status of the depicted works, not only the authorship of the photograph. A holding that documents the photograph but not the depicted work perpetuates the asymmetry.

10. Research gaps

Four gaps emerge that an original study could occupy:

1. **No monograph on the carrier function.** On graffiti photography as a subject in its own right there is a case study within an art-historical dissertation (Kimvall 2014), a chapter in Austin (2001) and a conversation in the *Nuart Journal* (2024). A study treating the photograph systematically as a work carrier, or comparing this field's photographers as a body of work, is missing.
 2. **Photographers are absent from the intermediary model.** Weill (2022) distinguishes three intermediary types in the art market's absorption of graffiti subculture — scene experts, entrepreneurs, auctioneers — and does not treat photographers as a group of their own. That is exactly where second-order work carriership sits: the photographer does not mediate between work and market but produces the tradable object in the first place. This is the most precise point of connection for an original study. *Evidence status (5 October 2026)*: what has been checked is the abstract of the published version (three types, source grade A) and a freely accessible author manuscript in which photographers do not appear as an intermediary group (grade B). The published full text has not been consulted.
 3. **No comparative legal study on the case.** The coexistence of US law — including moral rights under the Visual Artists Rights Act — and European freedom of panorama has not been worked through for documentary holdings. The subject of COOP-PROV0001-P2. Unresolved in particular is whether systematically removed works satisfy the requirement of permanence, and how the place of capture is to be documented.
 4. **No study of the copy-template effect.** That the 1984 publication triggered stylistic dissemination is documented for some cities and not for others; the routes, time lags and local variations have not been systematically recorded. A survey via European scene archives is feasible, for Vienna through an image archive maintained since 2001.
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11. Result

The Martha Cooper case exhibits a constellation that reaches beyond it. As soon as a work exists for a shorter period than the attention cycle addressing it, the carrier function shifts to the medium that outlasts that cycle. In such cases art history works not on the work but on its form of transmission, and should say so rather than paper over it.

The proposed evidence scale E0–E4 makes this condition testable and is not confined to graffiti. The $\rho/6$ asymmetry between work maker and documentarian is the structural explanation for the recurrence of appropriation charges in this field, including where no personal misconduct is present.

12. Interests and disclosure

The author operates a sole proprietorship in additive manufacturing. The present subject does not touch that field of business. This paper is a commercial work product of the independent research strand; there is no institutional affiliation and no third-party funding. There are no economic relationships with the persons, publishers, museums or galleries named.

13. Sources and literature

The bibliography is identical to the German version; see `../DE/COOP-P1_werktraegerschaft_de.md`, section 13, and the consolidated list in `../literatur.md`.

Short form of the central sources

- Cooper, Martha / Chalfant, Henry: *Subway Art*. London: Thames & Hudson / New York: Henry Holt, 1984.
- Cooper, Martha / Sciorra, Joseph: *R.I.P.: New York Spraycan Memorials*. London: Thames & Hudson, 1994.
- Cooper, Martha: *Hip Hop Files: Photographs 1979–1984*. Berlin: From Here To Fame, 2004.
- Brassai: *Graffiti*. 1960/61; exhibition *Language of the Wall*, MoMA, New York, 1956.
- Austin, Joe: *Taking the Train*. New York: Columbia University Press, 2001.
- Castleman, Craig: *Getting Up*. Cambridge, Mass.: MIT Press, 1982.

- Kimvall, Jacob: *The G-Word*. Stockholm: Dokument Press, 2014.
- Weill, Pierre-Edouard: *From the Train Yard to the Auction House*. In: *Cultural Sociology*, 2022. DOI: 10.1177/17499755211021315.
- *Martha: A Picture Story*. Dir. Selina Miles, Australia 2019.

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PART P2

Two Rights in One Image

The Legal Framework of Photographic Documentary Holdings of Ephemeral Art: USA - EU - Austria

Working paper COOP-PROV0001-P2, version 2.4, 14 October 2026

Note. This paper sets out the state of research and the legal position in outline. It is not legal advice and does not replace case-specific legal review. The provisions cited must be checked against the text in force before any exploitation; case law and legislation change.

New in version 2.4. Second source check of 14 October 2026: the wording of item 5 has also been compared for the version from 1936 in the legal information system; it read unchanged from 1 July 1936 to 30 June 2003. Paragraphs 32, 33 and 35 of “AIDA Kussmund” and the headnotes of “Verhüllter Reichstag” have been checked against the Federal Court of Justice’s official full text. Headnote b) of “Verhüllter Reichstag” contains a second sentence directly relevant to graffiti, added in section 5.3.

New in version 2.3. Source check of 14 October 2026. The German §§ 10, 59 and 66 UrhG have been compared with the original on [gesetze-im-internet.de](https://www.gesetze-im-internet.de) (grade A; statute last amended by Art. 2 of the Act of 26 May 2026, BGBl. I No. 157). This showed that § 10 dUrhG has a third paragraph (presumption for holders of exclusive rights of use), missing in version 2.2. The headnotes of BGH I ZR 247/15 have been checked against the Federal Court of Justice’s official full text (grade A). The change in the wording of § 54(1)(5) öUrhG is dated in the legal information system: BGBl. I No. 32/2003, in force since 1 July 2003. The Supreme Court’s legal propositions on § 54(1)(5) are confirmed in the legal information system; a search for decisions on graffiti and murals returned no hits under § 54.

New in version 2.2. The wording of § 61 öUrhG and of §§ 10, 59 and 66 dUrhG was checked on 5 October 2026 by a research run. § 61 öUrhG comes from the federal legal information system (source grade A); the German provisions rest on extracts of the official site and parallel sources, because automated retrieval from [gesetze-im-internet.de](https://www.gesetze-im-internet.de) is blocked (grade B, comparison with the original on the official site still open). This also exposed an imprecision: since 1 October 2015 the term of protection for anonymous and pseudonymous works in Austria turns on exactly those two notions; before that it turned on the absence of an author designation under § 12. The description of the 1936 version in section 5.1 is corrected as well.

New in version 2.1. The wording of § 54(1)(5) and § 12 UrhG was verified against the federal legal information system on 28 September 2026. Both now stand at source grade A; the verification reservation of version 2.0 falls away. This also settled what § 54(2) governs: a remuneration claim relating to subparagraph 3, not the exceptions to subparagraph 5. Those exceptions sit within subparagraph 5 itself.

Correction to version 1.0. Version 1.0 of this paper asserted that Austrian freedom of panorama does not apply to painted vehicles because these are not fixed in place. That reasoning is incorrect and is withdrawn. The statutory wording contains no requirement of fixity, and the German Federal Court of Justice has expressly held, on the identically worded EU basis, that works on vehicles are covered. The tenable limitation lies not in mobility but in the requirement of **permanence** and in the **place from which the photograph was taken**. Section 5 has been rewritten accordingly. The paper’s practical conclusion stands, but now rests on defensible reasoning.

1 Starting position

Two legal positions coexist in a photograph showing another person's work:

1. the right in the photograph itself, held by the photographer,
2. the right in the depicted work, held by its maker.

As long as the documentary holding is not exploited, the duality has no consequences. It becomes decision-relevant as soon as exhibition, book publication, edition printing, licensing or deposit in an open repository is added.

Three particularities sharpen the position:

- The depicted works were frequently created **without the owner's consent** on property belonging to others.
 - The makers frequently operate **under scene names** and are only partly identifiable after the fact.
 - The works are **destroyed**, so consent can no longer be sought at the object.
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2 Protectability of unlawfully applied works

2.1 Germany — settled case law

The Federal Court of Justice answered the question in **"Mauer-Bilder"** (I ZR 68/93 of 23 February 1995, BGHZ 129, 66):

- The paintings on the Berlin Wall are works of fine art.
- **Unlawful creation is irrelevant to protectability.**
- Copyright and ownership stand independently side by side; the owner was entitled to sell the painted wall segments, subject to a balancing of interests ("imposed art").

In **"Staatsgeschenk"** (I ZR 42/04 of 24 May 2007, GRUR 2007, 691) the court further held that, for art applied unsigned and without the owner's consent, there was no duty to name the author at a ceremony or to enquire after them. Protectability is unaffected; individual downstream claims against the owner are limited.

2.2 Austria

No supreme court decision on unlawfully applied works was found. The German line transfers well given the comparable system, but confirmation is lacking.

2.3 United States — the contrary thesis has been withdrawn

The contrary position was advanced under the heading of *unclean hands*, most clearly in 2018 by a clothing company seeking a declaration that no copyright subsists in illegally applied graffiti. After public criticism the claim was withdrawn in March 2018, followed by a settlement in September 2018. No decision treating illegality as excluding protection is known.

Consequence for the documentary holding. The assumption that unlawfully created works are in the public domain is incorrect and must not underlie any exploitation decision.

3 United States

3.1 Depiction as a derivative work

Under US copyright, the depiction of a protected pictorial work may constitute a *derivative work*. Permissibility depends on permission or on fair use under 17 U.S.C. § 107. Documentary, commentary or scholarly use stands more favourably than advertising or purely decorative use.

3.2 No general freedom of panorama

17 U.S.C. § 120(a) permits depiction of **architectural works** visible from a public place. Pictorial works on or attached to buildings are not covered. There is no general limitation equivalent to European freedom of panorama.

3.3 Moral rights under VARA

The Visual Artists Rights Act of 1990 (17 U.S.C. § 106A) grants rights of attribution and integrity and, for works of *recognized stature*, protection against destruction.

The governing case is the 5Pointz litigation. On 12 February 2018 the federal court awarded the statutory maximum of USD 150,000 per work for 45 of 49 works, totalling USD 6.75 million to 21 artists. The Second Circuit affirmed on 20 February 2020 (*Castillo v. G&M Realty L.P.*, 950 F.3d 155); the Supreme Court denied certiorari on 5 October 2020. The appellate court expressly held that VARA draws no distinction between permanent and temporary works.

Significance for documentary holdings. VARA governs destruction and distortion, not depiction. Indirectly the decision matters considerably: it establishes the work character and recognized stature of the genre and removes the basis for any argument classifying depicted pieces as unprotected criminal damage.

3.4 Proceedings over the depiction of works

Since 5Pointz several proceedings have been brought by makers against companies over the depiction of their work in advertising or on goods. The record is mixed and largely documented only journalistically:

PROCEEDING	YEAR	OUTCOME
Maker v. clothing company (declaratory action against protection)	2018	Claim withdrawn, then settled
Maker v. fashion house	2014	Settled out of court
Maker v. car manufacturer (mural behind an advertising shot)	from 2018	Company's motion for summary judgment denied, then settled
Second car manufacturer, declaratory action based on architectural copyright	2019	Makers' motions to dismiss denied in September 2019; further outcome not documented
Maker v. fashion brand	2015/16	Agreement in principle after the defendants sought to exclude graffiti as an "act of vandalism"
Maker v. coffee chain	2015/16	Claim dismissed; only the <i>style</i> had been taken, which is not protected by copyright
Street-art image as a stage backdrop	—	Held to be fair use

Two conclusions: companies regularly settle rather than have the question of principle decided; and copyright protects the individual work, not a style — meaning that for documentary holdings it is the depiction of a specific work that carries risk, not the rendering of a visual idiom.

4 European Union

Article 5(3)(h) of Directive 2001/29/EC permits Member States a limitation for the use of **works made to be located permanently in public places**. Implementation is optional and uneven. There is no uniform EU-wide freedom of panorama; the national law of the place of exploitation governs.

No decision of the Court of Justice of the European Union on this provision was found. The German Federal Court of Justice refrained from a reference in the decision discussed below and treated the national provision as compliant with the directive.

5 Austria and Germany — the requirement of permanence

5.1 The Austrian wording

§ 54(1)(5) UrhG (freedom of the streetscape) permits reproduction, distribution, optical presentation, broadcasting and making available to the public of works of architecture as executed, and of **other works of fine art from copies made in order to be located permanently in a public place**.

Three uses are excluded, within subparagraph 5 itself:

1. the re-erection of buildings,
2. the reproduction of a work of painting or graphic art for permanent placement in such a location,
3. the reproduction of sculpture by sculpture.

§ 54(2) does not concern this subparagraph. It grants the author, in relation to subparagraph 3 (school use), a claim to equitable remuneration enforceable only through collecting societies. It has no bearing on the present subject.

Three findings are decisive here:

- **The wording requires no fixity of place.** It attaches to the purpose for which the copy was made, not to the immobility of the carrier. An older version, as reproduced by the Supreme Court in 1994 (4 Ob 80/94), referred to copies permanently located in a place serving public traffic; the text in force attaches to the purpose for which the copies were made ("dazu angefertigt wurden"). The change was made by **BGBL. I No. 32/2003, in force since 1 July 2003**: item 5 read the same in all versions from 1 July 1936 (BGBL. No. 111/1936) to 30 June 2003, "nach Werkstücken, die sich an einem dem öffentlichen

Verkehr dienenden Orte bleibend befinden, zu vervielfältigen“, and making available to the public was missing. The amendment by BGBl. I No. 99/2015 did not affect item 5; it concerned other items of § 54(1). Checked on 14 October 2026 against the historical versions in the legal information system (grade A; versions of 1 January 1990, 30 June 2003 and 1 July 2003 compared verbatim). What counts is the wording at the time of the respective use: for uses up to 30 June 2003 it referred to the place, since then to the purpose of production.

- **“Permanently” attaches to the copies, not to the place.** What matters is the purpose for which the copy was made, not how long it actually stayed where it was. This is the hinge of the whole discussion in section 5.6.
- **Graffiti fall under the provision as works of fine art.** The Austrian provision is narrower than the German in covering only architecture and fine art; for the present subject that has no consequence.

Evidence. The wording was verified on 28 September 2026 against the federal legal information system (statute no. 10001848). The version in force applies from 1 October 2015, last amended by BGBl. I No. 99/2015. The wording of item 5 has been unchanged since 1 July 2003. Source grade A.

5.2 The governing decision: “AIDA Kussmund”

The German Federal Court of Justice decided on **27 April 2017, I ZR 247/15 (“AIDA Kussmund”)** on the depiction of a work painted on a ship’s hull. The operative holdings:

- A work is located **“at” a public place** if it can be perceived from there. Whether the work itself is accessible is irrelevant.
- **Public** means freely accessible to anyone, irrespective of ownership; the statutory list is illustrative and covers at least places under the open sky.
- **A work that changes location** is located at public places if all of those places are public. The mobility of the carrier does no harm.
- **“Permanently”** means lasting and not merely temporary, measured **from the perspective of the general public**, not solely by the author’s intention.
- The user bears the **burden of proving that the photograph was taken from a public place**.
- The court expressly bases its broad reading on the directive, which covers all works made to be located permanently in public places.

Evidence. Headnotes a) to f) were checked on 14 October 2026 against the official full text of the Federal Court of Justice (judgment of 27 April 2017, ECLI:DE:BGH:2017:270417UIZR247.15.0; grade A). Headnote e): a work is located “bleibend” in public places “wenn es sich dauerhaft und nicht nur vorübergehend an öffentlichen Orten befindet. Das ist der Fall, wenn das Werk aus Sicht der Allgemeinheit dazu bestimmt ist, für längere, meist unbestimmte Zeit an öffentlichen Orten zu bleiben.” The reasoning has been checked against the same text (grade A): para. 32 expressly bases the formula on “Verhüllter Reichstag” (BGHZ 150, 6, 9 ff.); para. 33: “‘Bleibend’ bedeutet nicht ortsfest, sondern dauerhaft.” Para. 35 states the limit at the place of capture: privileged are “nur Aufnahmen und Darstellungen eines geschützten Werkes ..., die von öffentlichen Wegen, Straßen oder Plätzen aus gemacht worden sind”.

According to the court’s press release, freedom of panorama thus also covers works on vehicles deployed as intended in public traffic, such as advertising on buses or trams.

Transferability to Austria. The Austrian wording adopts the directive’s formula more literally than the German. The court’s argument therefore carries at least equal weight in Austria. Two differences could support a divergent result: “made in order to” emphasises the purpose at the time of production and may weight the author’s perspective more heavily than the public perspective invoked by the court; and up to 30 June 2003 the Austrian wording expressly referred to a place serving public traffic (“dem öffentlichen Verkehr dienender Ort”); for photographs and publications from before that date this wording governs. The transfer is well arguable but not confirmed by a supreme court.

5.3 The limit: “Verhüllter Reichstag”

By judgment of **24 January 2002, I ZR 102/99 (BGHZ 150, 6)** the Federal Court of Justice held, for a wrapping installed for two weeks, that a work is not located permanently in a public place where it is presented **as a time-limited exhibition**; limitations are to be construed narrowly. Headnote b) continues: “Unerheblich ist dabei, ob das Werk nach dem Abbau fortbesteht oder ob es mit dem Abbau untergeht.” (Official full text, checked on 14 October 2026, grade A.)

For works removed by schedule it follows that the fact that a graffiti perishes on removal makes it neither permanent nor non-permanent. What alone matters is whether its placement is to be understood as a time-limited presentation. For unauthorised works placed without a fixed duration and removed by the owner, this has not been decided.

This fixes the test that matters for the present holding: not mobility but **temporal determination** decides.

State of opinion on “permanent” (grade C, as the “Verhüllter Reichstag” judgment reports it; the literature itself has not been consulted). A work is undisputedly permanent if it remains in place for its natural lifespan. For shorter presentations two lines stood opposed: one by duration of the work’s existence and one by the author’s intention. The Federal

Court of Justice followed neither entirely but looked to the **purpose of installation**: if it serves a presentation in the sense of an exhibition, usually measured in weeks and months, the work is not permanent. The author’s intention alone does not suffice, since otherwise a mere declaration would take the work out of the limitation. For **graffiti and street art** there is no decision of a supreme court. The contributions from advisory and guidance practice that can be found contradict one another (for instance, the artist’s intention alone as decisive versus attachment to painting-over by the owner); they are not specialist literature in the strict sense and carry no statement here. Open remains how the formula of an installation “made with the consent of the person entitled” applies to unauthorised works. Commentaries (Schricker/Loewenheim, Dreier/Schulze, Kucsko/Handig) have not been evaluated.

5.4 Austrian case law

Decisions of the Supreme Court on § 54(1)(5) UrhG are documented, all concerning buildings:

- OGH 12 September 1989, 4 Ob 106/89 (an architect’s estate),
- OGH 26 April 1994, 4 Ob 51/94 (Hundertwasserhaus, SZ 67/70): the free use **does not include a right of adaptation**,
- OGH 12 July 1994, 4 Ob 80/94: stained glass forms part of the interior and exterior view; parts of buildings may be depicted in isolation; only repetition, not depiction, is excluded.

The legal propositions were confirmed on 14 October 2026 in the legal information system (grade A): RS0076787 (“Die freie Werknutzung nach § 54 Abs 1 Z 5 UrhG umfaßt kein Bearbeitungsrecht.”), RS0076896 (photographing, drawing and painting are permitted, only repetition of the work is excluded; commercial purposes may also be pursued), RS0076909 (a stylised representation is not a depiction), RS0076901 (every free use ends where it infringes the author’s moral interests), RS0076941 and RS0076943 (4 Ob 80/94).

On the requirement of permanence and on vehicles there is **no** Austrian supreme court decision. **Search of 14 October 2026 in the legal information system (judiciary)**: search term “Graffiti” 13 hits (criminal cases, tenancy law on removing graffiti, enforcement law, trade mark law), search term “Wandbild” 4 hits (property law on a fresco, OGH 8 Ob 642/93), norm “UrhG §54” 20 legal propositions — none concerns graffiti, murals or street art. This is a negative finding for these queries, not proof that no decision exists. The literature takes the view that graffiti are in principle capable of being permanently located at the place where they are applied.

The Hundertwasserhaus decision matters directly for documentary holdings: the limitation covers **depiction**, not **adaptation**. Image editing, crops with a creative contribution of their own, and reuse within a layout must be measured against this.

5.5 The second bottleneck: the place of capture

From “AIDA Kussmund” follows a practical limit absent from version 1.0: the limitation covers only photographs taken **from a public place**, and the burden of proof lies with the user.

For the present holding this creates a split:

PLACE OF CAPTURE	ASSESSMENT
Platform, street, bridge, publicly accessible roof, open ground	Limitation may apply
Storage yard, depot, tunnel, fenced operating site, building site	Limitation cannot apply, irrespective of all other criteria

A considerable share of photographs of ephemeral art is made at the second kind of place. For those, freedom of panorama is no route at all, even where the depicted work satisfies every other requirement.

5.6 Result for the three case groups

CASE	GERMANY (§ 59 DURHG)	AUSTRIA (§ 54(1)(5) ÖURHG)
(i) painted railway or subway car	Mobility harmless after “AIDA Kussmund”. Permanence remains contested: for illegally painted cars that the operator systematically cleans, determination for a longer period from the public’s perspective is doubtful. Photographs from storage yards fail on the place of capture.	The wording does not exclude vehicles; transfer well arguable, unresolved. “Made in order to” may weight the maker’s intention more heavily, which favours application.
(ii) illegal wall piece removed within days	Contested. Practitioner literature tends towards permanence, because overpainting is attributable to the owner and not the maker; the counter-position relies on the objective perspective and the short actual duration. No case law.	Unresolved; the literature affirms capability. Short actual duration is not decisive on its own under the wording.
(iii) authorised, permanent wall piece	Covered, if photographed from a public place.	Covered, if a public place. Reproduction for permanent placement at another public location remains excluded.

In summary: freedom of panorama carries a documentary holding of ephemeral art **in part**. It fails not on the mobility of the carrier but on three other points — the place of capture, the uncertainty of the permanence requirement for systematically removed works, and the fact that it does not cover adaptation.

5.7 Further limits of the provision

By judgment of **23 October 2024, I ZR 67/23** the Federal Court of Justice held that **drone photographs** are not covered by freedom of panorama, because the provision covers works only insofar as they form part of the street or landscape scene perceptible by the general public. For holdings produced with aircraft this is directly relevant.

In “**East Side Gallery**” (I ZR 242/15 of 19 January 2017) the court treated a wall painting as a protected work and held the use of a photograph of it on an architectural model permissible.

5.8 Protection of the photograph itself

In Austria the photograph enjoys protection as a photographic work or as a photograph under the provisions on related rights. That protection exists **irrespective** of whether making the photograph interferes with the right in the depicted work. The two positions must be examined separately.

5.9 Further relevant limitations

For scholarly work the following must additionally be examined: the **right of quotation** for image quotations, to the extent required and with attribution; the limitations for **teaching and instruction**; and the provisions on **text and data mining**. Each presupposes a bound purpose and carries neither edition printing nor advertising use.

6 The scene name as an author designation

For attribution and for any clearing of rights it matters whether a scene name operates as an author designation.

- The **presumption of authorship** under § 12 öUrHG is headed “Vermutung der Urheberschaft”. It extends expressly to **pseudonyms and artists’ marks**; the condition is that the pseudonym is **known** to be used by the author. For works of fine art the provision names artists’ marks separately. Verified on 28 September 2026 against the legal information system, source grade A. The German counterpart is § 10 dUrHG.
- **Anonymous and pseudonymous works** carry a term of protection of their own.
 - **Austria, § 61 öUrHG** (version in force since 1 October 2015, BGBl. I No. 99/2015, source grade A): copyright ends seventy years after creation; if the work is published earlier, seventy years after publication. If the identity is disclosed within that period or the pseudonym leaves no doubt about it, the term is measured under § 60. Disclosure is for the author or the person to whom the copyright has passed. Until 30 September 2015 the provision turned on the absence of an author designation under § 12; the new version applies under § 116 to all works whose term had not yet expired on 1 October 2015.
 - **Germany, § 66 dUrHG** (grade A): copyright expires seventy years after publication, for unpublished works seventy years after creation. On disclosure of identity or an unambiguous pseudonym, §§ 64 and 65 apply; the same applies on registration of the true name in the register of anonymous and pseudonymous works (§ 138).
 - **German presumption rule, § 10 dUrHG** (grade A): paragraph 1 extends the presumption of authorship to pseudonyms and artist marks known as such; paragraph 2 presumes, where no author is designated, that the editor, failing that the publisher, is authorised to assert the rights; paragraph 3 extends the presumption of paragraph 1 to holders of exclusive

rights of use, limited to interim relief and injunctive claims and not as against the author. Under BGH, 18 September 2014, I ZR 76/13 (“CT-Paradies”), a designation suffices only if the public recognises in it the name of a natural person (grade C, via database extract). Whether a writer’s name meets that condition is open.

- **Particularity in writing:** the name is frequently the work itself. The designation is therefore not merely a signature but the pictorial subject. Whether this defeats the presumption or supports it has not been decided.
- No case law on graffiti pseudonyms was found.

Evidence. §§ 12 and 61 öUrhG have been checked against the statutory text (grade A). The German §§ 10, 59 and 66 have been compared with the original on [gesetze-im-internet.de](#) since 14 October 2026 (grade A). No heading of its own for § 61 öUrhG was visible in the single-provision view; whether a section heading exists has not been checked.

7 Comparison matrix

QUESTION	USA	EU (DIRECTIVE LEVEL)	AUSTRIA	GERMANY
Protection of unlawfully applied works	yes (contrary thesis withdrawn 2018)	yes	yes (prevailing view, not adjudicated)	yes (BGH Mauer-Bilder)
General freedom of panorama	no	optional	yes, § 54(1)(5) UrhG	yes, § 59 UrhG
Mobile carrier is harmful	—	no	no (wording)	no (BGH AIDA Kussmund)
Short-lived, systematically removed piece	—	—	unresolved	contested
Time-limited installation	—	—	unresolved	no (BGH Verhüllter Reichstag)
Photograph from a non-public place	—	—	not covered	not covered, burden on the user
Adaptation covered	—	—	no (OGH Hundertwasserhaus)	no
Drone photograph covered	—	—	unresolved	no (BGH 2024)
Moral rights in the work	VARA § 106A	national implementation	UrhG	UrhG
General fair-use clause	yes, § 107	no	no	no

Legal comparison of exploitation

Outline review · not legal advice · as of 24 September 2026

	USA	EU	AUSTRIA	GERMANY
Protection of unlawfully placed works	yes	yes	majority, open	yes
General freedom of panorama	no	optional	§ 54 Abs 1 Z 5	§ 59
Mobile carrier excludes	–	no	no (wording)	no
Short-lived, scheduled-removal work covered	–	–	open	disputed
Temporary installation covered	–	–	open	no
Shot from a non-public place covered	–	–	no	no
Adaptation covered (AT: OGH 4 Ob 51/94)	–	–	no	no
Drone shot covered	–	–	open	no
Moral rights in the work	VARA § 106A	national	UrHG	UrHG
General fair-use clause	§ 107	no	no	no

Corrected: freedom of panorama does not fail on the mobility of the carrier (BGH I ZR 247/15) but on the shooting location, on the unresolved criterion “permanent” for works removed by schedule, and on its not covering adaptation.

Figure 4 – Comparative legal matrix, version 2.0. Ten test questions for the United States, the Union, Austria and Germany.

8 Consequences for our own working method

Seven rules follow and are binding within the strand:

1. **No image reproduction without a cleared dual position.** Describe and cite rather than reproduce.
2. **Carry the attribution.** Every record also carries the maker of the depicted work, at minimum by scene name with a source.
3. **Freedom of panorama is assessed, neither assumed nor categorically denied.** Three points are recorded per record: whether the place of capture was public, an assessment of permanence, and whether an adaptation is involved.
4. **The place of capture is recorded.** It decides irrespective of all other criteria and is the one criterion the holding itself can document.
5. **Exploitation routes are kept apart.** Scholarship, exhibition and commercial edition printing have different preconditions.
6. **Zenodo deposit for our own texts, data and figures only.** No third-party pictorial works.
7. **Split licensing.** Texts remain with the author, all rights reserved. The research edition of the tool and the data layers are MIT-licensed, the industry-neutral edition is licensed via syntagma-science.com; neither contains third-party works.

9 Open points

- Evaluation of the commentary literature on “permanent” (Schricker/Loewenheim, Dreier/Schulze, Kucsko/Handig; library or database access needed). Statutory wording and BGH headnotes have been checked.
- Full review of decisions on § 54 outside the legal information system; the queries there returned no hits for graffiti.
- Outcome of the US proceedings still pending.
- Conflict of laws: Austrian law governs use in Austria (lex loci protectionis). This is general doctrine and is not separately evidenced here.
- Whether a scene name satisfies the presumption of authorship where it is at the same time the pictorial subject.

Completed on 14 October 2026: hand comparison of the German §§ 10, 59, 66; full text of BGH I ZR 247/15 (headnotes, paras. 32, 33, 35) and I ZR 102/99 (headnotes); wording and date of change of § 54(1)(5) öUrHG since 1936; query of Supreme Court case law on graffiti in the legal information system.

10 Sources

Legal sources

- Urheberrechtsgesetz (Austria), in particular § 54(1)(5), §§ 12 and 61, and the provisions on photographic works and photographs.
- Urheberrechtsgesetz (Germany), in particular §§ 10, 59 and 66; last amended by Art. 2 of the Act of 26 May 2026, BGBl. I No. 157 (gesetzze-im-internet.de, retrieved 14 October 2026).
- Directive 2001/29/EC of 22 May 2001, in particular Art. 5(3)(h).
- 17 U.S.C. § 106A (VARA); § 107 (Fair use); § 120(a) (Architectural works).

Case law

- BGH 23 February 1995, I ZR 68/93 — “Mauer-Bilder”, BGHZ 129, 66.
- BGH 24 January 2002, I ZR 102/99 — “Verhüllter Reichstag”, BGHZ 150, 6.
- BGH 24 May 2007, I ZR 42/04 — “Staatsgeschenk”, GRUR 2007, 691.
- BGH 19 January 2017, I ZR 242/15 — “East Side Gallery”.
- BGH 27 April 2017, I ZR 247/15 — “AIDA Kussmund”, ECLI:DE:BGH:2017:270417UIZR247.15.0.
- BGH 23 October 2024, I ZR 67/23 — drone photographs.
- OGH 12 September 1989, 4 Ob 106/89; OGH 26 April 1994, 4 Ob 51/94 (SZ 67/70; RS0076787, RS0076896, RS0076901, RS0076909); OGH 12 July 1994, 4 Ob 80/94 (RS0076941, RS0076943).
- *Castillo v. G&M Realty L.P.*, 950 F.3d 155 (2d Cir. 2020); first-instance decision of 12 February 2018; certiorari denied 5 October 2020.

Secondary literature

- Weill, Pierre-Edouard: *From the Train Yard to the Auction House*. In: *Cultural Sociology* 16 (1), 2022, 45–67. DOI 10.1177/17499755211021315.
- Kimvall, Jacob: *The G-Word*. Stockholm: Dokument Press, 2014.
- Ferrell, Jeff: *Crimes of Style*. Boston: Northeastern University Press, 1996.

Source-quality grades

The decisions and holdings are grade A. The wording of § 54(1)(5) and § 12 öUrhG has been grade A since the verification of 28 September 2026. Statements on the outcome of the US proceedings are predominantly grade B (journalistic sources) and are marked as such. § 61 öUrhG has also been grade A since 5 October 2026; the German §§ 10, 59 and 66 and the amendment history of § 54 öUrhG since 14 October 2026. The state of opinion on “permanent” remains grade C until the commentaries have been consulted. Details in `02_INTERN/protokolle/quellenbewertung.md`.

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PART P3

Document and Event

Delimiting Second-Order Work Carriership against the Performance-Documentation Debate, with Market and Reception

Working paper COOP-PROV0001-P3, version 1.2, 14 October 2026

New in version 1.1. The research run of 5 October 2026 found a close precursor to the matter, though not to the term: Emma Arnold writes in *Area* 53 (4), 2021, that photographs of graffiti and street art have become a “stand-in for the work itself”, a document of an ephemeral work that lives on after its disappearance (grade C, from an extract). The idea is therefore not new. What is new is its formulation as carriership with an author of its own, with grading (E0–E4) and with a legal dual structure. No positive finding for the term itself exists; the negative finding holds for open web search, the specialist databases have not been queried.

Abstract

COOP-PROV0001-P1 introduces the concept of **second-order work carriership**. This paper checks whether the term is new, delimits it against existing theory, and supplies the empirical parts P1 left open: market, reception, and whether documentation

fed back into the practice it documented.

Four findings:

1. The term is **not traceable** in art-historical, media-studies or conservation literature and is therefore expressly carried as a coinage.
2. The closest developed theory is the debate on **performance documentation**. It clarifies the relation of event and document but does not fit the present case, because there an event is documented, here a **material work with an author of its own**. That difference is what justifies the coinage.
3. The assumption that the documented subject was untouched by its documentation is **untenable**. Documentation fed back into the practice.
4. The market position is more thinly evidenced than expected. Few auction records are reliable; no sharing of proceeds between photographers and makers is documented.

1 Is the term new?

A check on “Werkträgerschaft zweiter Ordnung” and “second-order work carriership” produced no hit in art-historical, media-studies or conservation literature. Existing hits belong to other fields: structural engineering, succession law, systems theory’s “second-order observation”, and patents on workpiece carriers.

Consequence. The term is introduced as a coinage and marked as such. This is not incidental: a coinage presenting itself as an established term would be a defect; a coinage that does not delimit itself against what exists remains arbitrary. Section 2 performs that delimitation.

Verification reservation. The check rests on web research, not on a systematic query of specialist databases. It is a negative finding and not conclusive. The research run of 5 October 2026 repeated the open web search with the same result and found Arnold (2021) as the closest precursor to the matter (see the box at the top). **Added in version 1.2:** on 14 October 2026 queries in the German National Library, BASE and Zenodo for “Werkträgerschaft”, “Werkträgerschaft zweiter Ordnung” and “second-order carriership” returned no hits. CORE and Google Scholar could not be queried; JSTOR, BHA/RILA and Art Index have not been queried; protocol in `02_INTERN/protokolle/faktenpruefung.md`, section 10.5.

2 The performance-documentation debate

The problem of a document taking the place of a subject that no longer exists has been worked through in performance theory for over thirty years. Anyone writing on ephemeral art in public space without knowing this debate repeats it.

2.1 The four positions

Peggy Phelan (*Unmarked: The Politics of Performance*, Routledge 1993, chapter “The Ontology of Performance: Representation Without Reproduction”) takes the strictest position: performance cannot be saved, recorded or documented without becoming something other than performance. The document is only a spur to memory. Non-reproducibility is for her not a deficiency but the political essence of the genre.

Amelia Jones (“‘Presence’ in Absentia: Experiencing Performance as Documentation”, *Art Journal* 56 (4), 1997, 11-18, DOI 10.1080/00043249.1997.10791844) counters: experience through the document is not a deficient mode of presence. She notes that she knows many works only through documents and nonetheless derives defensible claims from them.

Philip Auslander (“The Performativity of Performance Documentation”, *PAJ: A Journal of Performance and Art* 28 (3), 2006, 1-10, DOI 10.1162/pajj.2006.28.3.1) supplies the distinction most useful here:

- **documentary** — the document attests an event that took place independently of it;
- **theatrical** — the event was produced for the camera and does not exist outside the document in the form shown.

Following Austin, Auslander argues that documenting is performative rather than constative: the document helps constitute the performance as such. The document’s authority may be phenomenological rather than ontological. The essay derives from a paper given at the symposium *After the Act*, Museum moderner Kunst Stiftung Ludwig Vienna, 5 November 2005, and appeared in the resulting volume.

Rebecca Schneider (“Performance Remains”, *Performance Research* 6 (2), 2001, 100-108; *Performing Remains*, Routledge 2011) opposes Phelan: performance does remain — in repetition, body memory and reenactment. That performance counts as what does not remain follows from the logic of the archive, not from the nature of the thing.

Boris Groys (“Art in the Age of Biopolitics: From Artwork to Art Documentation”, in: *Documenta 11_Platform 5*, Hatje Cantz 2002; reprinted in *Art Power*, MIT Press 2008, 53-65) belongs here as well, distinguishing art documentation from art and examining how documentation acquires aura through installation.

2.2 What carries, and what does not

QUESTION	PERFORMANCE DEBATE	EPHEMERAL ART IN PUBLIC SPACE
What disappears?	an event in time	a material work in space
Who made the subject?	the performer, often also the documenter or their commissioner	a third party who need have no connection to the documenter
Relation to the camera	frequently made for the camera (Auslander's <i>theatrical</i>)	not made for the camera, but see section 3
Authorship	one author of the event, document often in the same hand	two authors: work and photograph, legally separate
Economic consequence	the document secures the performer's position	the document creates the documenter's own , tradable position

At first sight graffiti photography falls into Auslander's *documentary* category: the car was not painted for the camera. That is the starting point, not the result (section 3).

The lasting difference is another. In the performance debate an event without a material carrier of its own is central. Here there is a **material pictorial work with an author of its own**, whose document comes from a **second author** who acquires a right of their own in it. Performance theory has no term for this doubling of authorship because it does not have the problem.

This is the reason for the coinage. "Second-order work carriership" does not denote that a document takes the place of an event — "documentation" in Auslander's sense suffices for that. It denotes that a work with an author of its own surrenders its carrier function to a work by a **different** author.

2.3 Conservation and museology

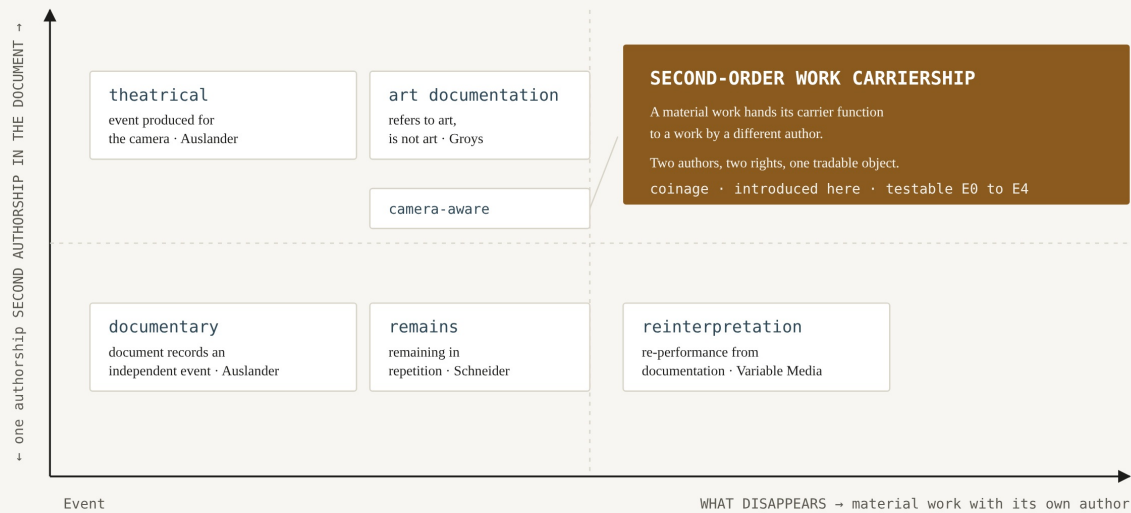
The second relevant literature comes from the conservation of time-based art. The **Variable Media Approach** (Alain Depocas, Jon Ippolito, Caitlin Jones (eds.): *Permanence Through Change: The Variable Media Approach*, Guggenheim Museum Publications and Daniel Langlois Foundation, 2003, ISBN 0-9684693-2-9) distinguishes four strategies: **storage, migration, emulation, reinterpretation**. Ippolito calls reinterpretation a dangerous technique when not warranted by the artist, and later defines it as fidelity to the original spirit rather than the material.

INCCA (founded 1999 following *Modern Art: Who Cares?*) relies above all on artists' interviews and shared documentation archives.

Finding: for the **replacement of the original by its documentation** no single term has established itself in this line. The variable-media logic treats documentation as the basis for later re-performance or reinterpretation, not as a substitute work. That is a different figure of thought from the one proposed here: there the document serves restoration, here it takes the place of what cannot be restored.

Where the concept sits

Second-order work carriership in relation to established concepts



Performance theory knows no second authorship in the documented object, because it does not have the problem.
The variable-media approach presupposes restorability, which is exactly what is missing here.
The intermediate state “camera-aware, not camera-directed” describes making that plans for documentation without being done for it.

Figure 6 – Where the term sits. The same figure as in P1, here as an overview to the delimitation table.

2.4 Delimitation table

TERM	ORIGIN	WHAT IT DENOTES	WHY IT DOES NOT SUFFICE HERE
<i>documentary documentation</i>	Auslander 2006	document of an independently occurring event	knows no second authorship in the subject
<i>theatrical documentation</i>	Auslander 2006	event produced for the camera	does not match the conditions of production
<i>art documentation</i>	Groys 2002	documentation referring to art without being art	settles status, not carrier function
<i>remains</i>	Schneider 2001/2011	what remains of performance in repetition	aims at body and reenactment, not pictorial carriers
<i>reinterpretation</i>	Variable Media 2003	re-performance following documentation	presupposes restorability
second-order work carriership	here	transfer of the carrier function to a work of foreign authorship	—

3 The feedback of documentation

The assumption that the documented subject was untouched by its documentation does not hold for the present holding. Jacob Kimvall shows that the documentation of graffiti shaped the practice in a dialectical relation: makers increasingly worked in the knowledge that photographers were present.

Three observations from the holding itself support this:

1. **Portraits before one’s own work** are posed. They presuppose arrangement and shared scheduling.
2. **Messages left on the photographer’s answering machine**, saying when and on which side freshly painted cars could be seen, make the photograph a planned component of the process.
3. **The photograph as the only record** was known to the participants. Whoever knows that only the photograph will remain works towards the photograph.

Consequence for the concept. Auslander’s dichotomy does not cut cleanly here. Production of the work was not *theatrical* —

the car was not painted for the camera and would have existed without it. Nor was it purely *documentary*, because the prospect of documentation entered into its production. The case requires a third description: **camera-aware, not camera-directed production**.

This also shifts the assessment of the asymmetry from P1. Documentation is not something added to the work from outside; it is part of the conditions under which the work arose. That does not relieve the documenter of the question of how returns are distributed, but it changes its form: this is not a subsequent appropriation but a jointly conditioned production that is unequally exploitable from the start.

4 Market

4.1 What is reliably evidenced

The market position is considerably less well evidenced than public impression suggests. Reliable data come from auction catalogues:

ITEM	RECORD
Colour print of a car (Chalfant, 1981), 22.5 × 116 cm	signed and numbered “2/25”, auction October 2016
Further print by the same photographer (1980)	“6/25”
Digital C-print (Cooper, 1982/2009), 50.8 × 76.2 cm	unique piece, previously shown in a Paris exhibition in 2009, auction November 2016
Deluxe edition of the anniversary edition of the 1984 book	signed, edition of 100

The edition of 25 is the only documented edition size. Price figures circulate via aggregator sites and are unverified; they are not adopted here. For other photographers in this field no reliable edition or price data were found.

4.2 The scholarly connection

Pierre-Edouard Weill (“From the Train Yard to the Auction House: Connecting the Graffiti Subculture to the Art Market”, *Cultural Sociology* 16 (1), 2022, 45–67, DOI 10.1177/17499755211021315) examines the division of intermediary labour in the commercialisation of subcultural art. Method: interviews, documentary sources and participant observation. Result: three historical phases from the New York initiatives of the 1970s to French themed auctions between 2006 and 2017, and three intermediary types — commissioned experts from the scene, entrepreneurs who are often collectors themselves, and established auctioneers. Their roles are complementary; the gains are unequally distributed.

The gap this project addresses: Weill does **not treat photographers as an intermediary group of their own**. That is precisely where second-order work carriership sits. Anyone examining the holding as an asset must introduce photographers as a fourth type — the one who does not mediate between work and market but produces the tradable object in the first place.

Evidence status (5 October 2026): The abstract of the published version names three types (source grade A). In the freely accessible author manuscript (different title, 32 pages, grade B) photographers do not appear as an intermediary group, nor do Cooper and Chalfant in the running text; *Subway Art* appears there once as a publication that furthered diffusion in Europe and the later legitimization of the writers shown in it, and, according to the manuscript, helped a new group of cultural brokers close to public administration identify an elite of writers. Weill therefore supports only that the book acted as a publication in the mediation chain; that photographers are absent as a group of their own holds for the manuscript. The revised publication (its bibliography is longer) has not been consulted.

Closest precursors. Arnold (2021): photographs as a “stand-in for the work itself” — the same matter, but descriptive, without a carrier or ordering concept and without a legal dimension. Novak (2015, *SAUC* 1 (1)): the photograph is mostly the sole proof of existence of a graffiti work but embodies “only” a representation — carriership is expressly denied. Nester (2017, University of Zurich, working paper on Art. 2 URG): speaks of a “Werkträger” in the sense of the work copy, without grading. The proximity is in each case either of matter or of terminology, never both at once (grade C, from extracts).

4.3 Sharing of proceeds

No documented sharing of proceeds between photographers and makers was found. Documented approximations:

- In the early 1980s a photographer proposed a postcard edition to a museum with a share of proceeds for the makers; the museum declined.
- The same photographer unsuccessfully sought paid commissions from companies for a dance crew from the scene.
- An arrangement with a library allows makers to use photographs of their own works — free use, not a share of proceeds.
- Royalties from the 1984 book went, according to an interview, to the photographers.
- Photographs served the photographers as a medium of exchange for access.

Finding. The exchange relationship described in P1 is documented. Economic participation by the makers is not. The **ausgleich** field in the register therefore stays at **offen** or **teilweise** for the core holding; only where a joint publication or an express arrangement is documented does it read **belegt**.

5 Critical reception

5.1 What is actually argued

Developed charges of extraction or appropriation against this field's documentarians in peer-reviewed literature were **not found**. What exists is narrower and different:

- **Canon narrowing.** RJ Rushmore (*Viral Art*, 2013, self-published, not peer-reviewed) argues that the photographers missed more than they documented; the governing book shows work from few lines, and the photographer thought like a photographer rather than an archivist.
- **Interpretive authority.** Joe Austin (*Rhizomes* 25, 2013) credits the photographers' work while noting that authoritative knowledge of the practice lies overwhelmingly with the makers' own community.
- **Counter-position.** A conversation in *Nuart Journal* 4 (2), 2024, records that the documentarians' role has long been recognised in the scene, because photography was essential to the practice's survival.

5.2 Assessment

Canon narrowing is the stronger charge because it is testable: it can be measured against the distribution of documented lines. Nor is it directed at a person, but at the structure of a holding that grows out of acquaintance — those who are photographed become known, and those who are known are photographed.

The register from P1 can represent this charge, but only if it carries attribution status consistently. A holding that records only the photographs reproduces the narrowing.

6 Viennese connection

For Vienna the route assumed in P1 — stylistic dissemination through the 1984 book — is **not documented**. A different, more direct route is: in 1984 a Viennese gallerist brought several New York writers to Vienna for an exhibition. A tram was legally painted in the New York style and subsequently ran through the city for weeks; a discotheque was decorated as well. A Viennese musician names this tram as his trigger. A dating imprecision must be noted: the source shows photographs from 1984 but speaks in the text more generally of the early 1980s.

For other cities the book's effect is better documented than for Vienna: in Amsterdam the book is known within the scene as the city's most-stolen; in Britain stolen copies and black-and-white photocopies circulated, and several makers date their entry to it.

Consequence. The thesis from P1 that dissemination proceeded through second-order carriers holds for part of Europe but precisely not for Vienna, where it ran through **people present**. This is not a refutation but a refinement — and a good reason not to generalise routes of dissemination but to survey them city by city.

A Viennese graffiti archive, maintained since 2001 and said to comprise over 200,000 photographs, is a candidate holding for such a survey. Several publications have come out of its circle; for a version 1.2 a conversation with its keeper would be the obvious primary source.

A second Viennese connection concerns theory: Auslander's essay derives from a symposium held in Vienna in 2005. The delimitation used here thus has a Viennese place of origin.

7 Consequences for the core paper

1. **Mark the coinage.** P1 introduces the term expressly as such and delimits it in a section of its own against Auslander, Groys and the variable-media approach.
 2. **Adopt camera-aware production.** The assumption of a practice untouched by documentation is replaced.
 3. **Reduce the market section to the evidenced.** Auction records and Weill only; no prices from aggregator sources.
 4. **Correct Vienna.** Not book effect but import of people.
 5. **Sharpen the research gap.** Photographers as a fourth intermediary type, following Weill.
-

8 Open points

- Query of the remaining specialist databases for the terminological check (Google Scholar, CORE, JSTOR, BHA/RILA, Art

- Index); DNB, BASE and Zenodo were queried on 14 October 2026 without hits.
- Weill 2022: consult the published full text (library access or request to the author); for the manuscript the question is answered.
 - Check Groys’s text against the original; the core distinction is given here from knowledge.
 - A primary source for the 1984 Vienna tram project beyond the journalistic account.
 - Systematic survey of dissemination routes city by city.

9 Sources

Identical to the German version; see `../DE/C00P-P3_dokument-ereignis_de.md`, section 9, and the consolidated list in `../literatur.md`.

Central sources in short form

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APPENDIX A1

Appendix A1 — Chronology 1943 to 2026

Documented dates only. Contested datings are marked; the evidence position is recorded in the package’s verification protocol.

Life and education

YEAR	EVENT	GRADE
1943	Born 9 March in Baltimore, Maryland	A — 1942 given in two sources, see verification protocol
c. 1946	First photograph of her own	B
1959	Leaves school and Baltimore	B
c. 1962	Art degree, Grinnell College	B
1960s	Peace Corps in Thailand; motorcycle journey Bangkok-London; diploma in ethnology, Oxford; internship at a geographical society	B
1969/70	Tokyo, documentation of traditional tattooing	B
1977	Staff photographer at a New York daily	B — some sources say only “the 1970s”

Work complexes

YEAR	EVENT	GRADE
from 1977/78	“Street Play”: children in street space, Lower East Side and South Bronx	A
late 1970s	Access to the writer scene through a previously photographed youth	B
1978–1985	Core holding of the subway documentation	A
1982	Publishing contract at the Frankfurt Book Fair; working title “Art Transit”	B
1984	“Subway Art”, Thames & Hudson London and Henry Holt New York	A
1994	“R.I.P.: New York Spraycan Memorials”, with Joseph Sciorra	A
2004	“Hip Hop Files: Photographs 1979–1984”	A
2005	“Street Play”; “We B*Girlz”	A
2006–2016	Long-term project in Southwest Baltimore	B
2007	“Tag Town”; “New York State of Mind”	A
2009	“Going Postal”; 25th Anniversary Edition of “Subway Art”	A
2010	“Name Tagging”	A
2012	“Tokyo Tattoo 1970”; “Postcards from New York City”	A
2016	Expanded new edition of “Subway Art”	A
2017/18	Berlin, documentation of a crew over one week	A
2021	“One Week with 1UP”	A
2022	“Spray Nation. 1980s NYC Graffiti Photos”	A

Reception and institutionalisation

YEAR	EVENT	GRADE
1983	“Style Wars” and “Wild Style” released	A
1984	Vienna: exhibition with visiting New York writers, tram legally painted	B
1985	Amsterdam: formation of a crew following the New York style	C
1987	“Spraycan Art” as a contemporary document of worldwide dissemination	A
2009	Anniversary edition; sales to that point around half a million copies	B
2011	“Art in the Streets”, Museum of Contemporary Art, Los Angeles	A
2015	“Bridges of Graffiti”, Biennale di Venezia	A
2016	Lecture in Vienna	B
2019	“Martha: A Picture Story”, directed by Selina Miles; world premiere at Tribeca Film Festival	A
2020/21	Retrospective “Taking Pictures”, Urban Nation Berlin, 2 October 2020 to 1 August 2021, extended	A
2021	Opening of the Martha Cooper Library, Berlin	A

Case law bearing on the subject

YEAR	DECISION	GRADE
1995	BGH “Mauer-Bilder”, I ZR 68/93: unlawfully applied works are protectable	A
2002	BGH “Verhüllter Reichstag”, I ZR 102/99: a time-limited exhibition is not permanent	A
2007	BGH “Staatsgeschenk”, I ZR 42/04	A
2017	BGH “East Side Gallery”, I ZR 242/15	A
2017	BGH “AIDA Kussmund”, I ZR 247/15: freedom of panorama covers works on vehicles too	A
2018	5Pointz, first instance: USD 150,000 per work for 45 of 49 works	A
2018	Withdrawal of the declaratory action against protection of illegally applied works	B
2020	5Pointz affirmed by the Second Circuit; certiorari denied 5 October 2020	A
2024	BGH I ZR 67/23: drone photographs not covered by freedom of panorama	A

History of the concept of the document

YEAR	CONTRIBUTION	GRADE
1956	“Language of the Wall”, Museum of Modern Art, New York	A
1960/61	Brassai: “Graffiti”	A
1982	Castleman: “Getting Up”	A
1993	Phelan: “Unmarked”	A
1997	Jones: “‘Presence’ in Absentia”	A
2001	Schneider: “Performance Remains”; Austin: “Taking the Train”	A
2002	Groys: “From Artwork to Art Documentation”	A
2003	“Permanence Through Change: The Variable Media Approach”	A
2005	Symposium “After the Act”, Vienna	A
2006	Auslander: “The Performativity of Performance Documentation”	A
2011	Schneider: “Performing Remains”	A
2014	Kimvall: “The G-Word”	A
2022	Weill: “From the Train Yard to the Auction House”	A

APPENDIX A2

Literatur- und Quellenverzeichnis

COOP-PROV0001 · Fassung 1.6 · Stand 14.10.2026 Gemeinsames Verzeichnis für COOP-PROV0001-P1, -P2 und -P3. Belegstufen nach 02_INTERN/protokolle/quellenbewertung.md.

1 Primärliteratur — Veröffentlichungen der Fotografin

JAHR	TITEL	BETEILIGTE	VERLAG, ORT	ISBN	STUFE
1984	Subway Art	mit Henry Chalfant	Thames and Hudson, London; Holt, Rinehart and Winston, New York („1st American ed.“, Reihe „An Owl book“)	0-03-071963-1 (US-Ausgabe)	A
1994	R.I.P.: New York Spraycan Memorials	mit Joseph Sciorra	Thames & Hudson, London	0-500-27776-1	A
2004	Hip Hop Files: Photographs 1979–1984	Hrsg. Akim Walta	From Here To Fame, Berlin	3-937946-05-5	A
2005	Street Play	—	From Here To Fame, Berlin	3-937946-16-0	A
2005	We B*Girly	Text Nika Kramer	powerHouse, New York	1-57687-269-6	A
2007	Tag Town	—	Dokument Press, Stockholm	978-91-85639-05-2	A
2007	New York State of Mind	—	powerHouse, New York	1-57687-408-7	A
2009	Going Postal	—	Mark Batty, New York	0-9799666-5-5	A
2009	Subway Art — 25th Anniversary Edition	mit Henry Chalfant	Thames & Hudson, London	—	A
2010	Name Tagging	—	Mark Batty, New York	0-9819600-6-5	A
2012	Tokyo Tattoo 1970	—	Dokument Press, Stockholm	978-91-85639-27-4	A
2012	Postcards from New York City	—	Dokument Press, Stockholm	978-91-85639-55-7	A
2016	Subway Art — erweiterte Ausgabe	mit Henry Chalfant	Thames & Hudson, London	978-0-500-29212-9	A
2021	One Week with 1UP	—	Publikat, Mainaschaff	978-3-939566-51-9	A
2022	Spray Nation. 1980s NYC Graffiti Photos	Hrsg. Roger Gastman	Prestel, München	978-3-7913-8874-8	A

Bibliografische Beschreibung *Subway Art*, Erstausgaben 1984 (abgerufen 14.10.2026):

AUSGABE	ANGABEN	QUELLE	STUFE
britisch	London: Thames and Hudson, 1984. 104 S., überwiegend farbige Ill., 28 cm. Gestaltung: Lawrence Edwards. Ohne ISBN im Datensatz	Deutsche Nationalbibliothek, IDN 993028829	A
amerikanisch	New York: Holt, Rinehart and Winston, c1984. „1st American ed.“; „An Owl book“. 104 p., chiefly col. ill., 28 cm. ISBN 0-03-071963-1. LCCN 84000620; LC GT3913.N72 N43 1984; Dewey 759.1471	Library of Congress Catalog	A

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- Urheberrechtsgesetz (Österreich), § 54 Abs. 1 Z 5, historische Fassungen: 01.07.1936–30.06.2003 in der Ziffer 5 gleichlautend („an einem dem öffentlichen Verkehr dienenden Orte bleibend befinden“); geltender Wortlaut der Z 5 seit 01.07.2003, BGBl. I Nr. 32/2003. § 78 (Bildnisschutz), Fassung BGBl. Nr. 111/1936, unverändert. — Stufe A, abgeglichen 14.10.2026.
- Urheberrechtsgesetz (Deutschland), §§ 10, 59 und 66; zuletzt geändert durch Art. 2 G v. 26.5.2026 I Nr. 157. — Stufe A, am 14.10.2026 auf gesetz-im-internet.de abgeglichen.
- Kunsturhebergesetz (Deutschland), §§ 22, 23; zuletzt geändert durch Art. 3 § 31 G v. 16.2.2001 I 266. — Stufe A, abgeglichen 14.10.2026.
- Richtlinie 2001/29/EG, insbesondere Art. 5 Abs. 3 lit. h.
- 17 U.S.C. § 106A (Visual Artists Rights Act of 1990); § 107 (Fair use); § 120(a) (Architectural works).
- BGH 23.02.1995, I ZR 68/93 — *Mauer-Bilder*, BGHZ 129, 66. — Stufe A.
- BGH 24.01.2002, I ZR 102/99 — *Verhüllter Reichstag*, BGHZ 150, 6. — Stufe A (Leitsätze am amtlichen Volltext geprüft 14.10.2026).
- BGH 24.05.2007, I ZR 42/04 — *Staatsgeschenk*, GRUR 2007, 691. — Stufe A.
- BGH 19.01.2017, I ZR 242/15 — *East Side Gallery*. — Stufe A.
- BGH 27.04.2017, I ZR 247/15 — *AIDA Kussmund*, ECLI:DE:BGH:2017:270417UIZR247.15.0. — Stufe A (Leitsätze und Rn. 32, 33, 35 am amtlichen Volltext geprüft 14.10.2026).
- BGH 23.10.2024, I ZR 67/23 — *Drohnenaufnahmen*. — Stufe A.
- OGH 12.09.1989, 4 Ob 106/89; OGH 26.04.1994, 4 Ob 51/94 (SZ 67/70, Hundertwasserhaus; RS0076787, RS0076896, RS0076901, RS0076909); OGH 12.07.1994, 4 Ob 80/94 (RS0076941, RS0076943). — Stufe A, Rechtssätze im Rechtsinformationssystem bestätigt 14.10.2026.
- OGH zu § 78 UrhG: RS0078088 (Schutzwürdigkeit bei objektiver Prüfung), RS0108481 (Erkennbarkeit). — Stufe A, 14.10.2026.
- *Castillo v. G&M Realty L.P.* (5Pointz), 950 F.3d 155 (2d Cir. 2020); erstinstanzliche Entscheidung vom 12.02.2018; Certiorari abgelehnt am 05.10.2020. — Stufe A.
- Portland Street Art Alliance: *Murals, Art, Copyright and VARA*, 2016. — Stufe B.

7 Audiovisuelle Quellen

- *Martha: A Picture Story*. Regie Selina Miles, Projector Films, Australien 2019, 84 Minuten. Weltpremiere Tribeca Film Festival 2019. — Stufe A.
- *Style Wars*. Regie Tony Silver, Koproduktion Henry Chalfant, USA 1983. — Stufe A.
- *Wild Style*. Regie Charlie Ahearn, USA 1983. — Stufe A.
- Vortrag TEDxVienna, Wien 2016. — Stufe B.

8 Archive, Sammlungen, Einrichtungen

- Martha Cooper Library, Urban Nation Museum for Urban Contemporary Art, Berlin (Spezialbibliothek, eröffnet 2021).
- City Lore — New York Center for Urban Folk Culture.
- Museum of the City of New York.
- Bronx Documentary Center, New York.

9 Ausdrücklich nicht verwendet

Aggregatorseiten, KI-erzeugte Enzyklopädieeinträge und Händlerbeschreibungen (Belegstufe D). Über diese Kanäle verbreitete Angaben zu Ehrendoktorat und Preisen haben sich nicht bestätigen lassen; Einzelheiten in `02_INTERN/protokolle/faktenpruefung.md`, Abschnitt 3.

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