

# CIRCLE CULTURE



CV & Selected Press  
ADRIAN FALKNER

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GALLERY

## ADRIAN FALKNER

Painting with less thinking going on. Unleashing the hand's movements by preventing the mind from telling it where to go. This expressionist precept is the main thrust of the work by Adrian Falkner, who asserts himself as a contemporary painter by reclaiming his civilian identity and shedding the pseudonym he'd been using until then: Smash137.

According to an idea of the Finnish architect and thinker Juhani Pallasmaa, our hands and the gestures they perform are not only the result of our thinking. In his book *The Thinking Hand* (2009), he states that because our hands are linked to our sense of touch, they participate in building our perception of the world as much as our thoughts do. The hands can therefore be attributed a power of expression almost independent from the mind, supposedly there to guide them. By relinquishing control, forgetting to conceive our gestures, we can fashion things without having first imagined them. This abandonment of forethought to spontaneity is what Adrian Falkner has worked on. What, exactly, is he stating?

Starting from the observation that, ever since he started painting, his work has been highly controlled, precise and meticulous, Adrian Falkner is striving to attain a form of freedom by experimenting with thought-free – but not uncontrolled – gestures. The idea of breaking loose from the chains of habit guiding his hand movement fascinated him to the extent of becoming the core focus of his new paintings. While the features of his art shine through in the spirit and colours of his work, its form has radically changed today. The construction based on the letters of his pseudonym has been replaced by circular movements repeated again and again to form multiple layers, artfully blending colours and techniques. No two circles are the same; they overlap without ever becoming superimposed, an astonishing fact when you're aware of just how precisely the Swiss artist used to construct his work, both in the street and the studio. But on viewing his works, on realising that Adrian Falkner has abandoned his pseudonym and the physical constraints imposed by constructing his paintings based on its letter, one understands that a radical transformation is underway. And what a necessary one it was. What sincere artist has not felt the need to start out on a new footing?

Paradoxically, it is this deliberate and well planned change that brought him to the point of electing to think less and launch into this expressionist adventure led by the hand, and not his mind. To use one of Pallasmaa's ideas, the hand stores experience of its own over time, and one that is detached from the experience accumulated, both consciously and unconsciously, by the mind. Depending on what we touch and use: materials, tools, temperature, texture, our hands memorise things that can then be expressed almost automatically. The hand is, finally, not just a tool; it is a tool one can ask to do things independently. Believing in the thinking hand is all that's needed.

Adrian Falkner (\*1979) lives and works in Basel, Switzerland.

## SELECTED EXHIBITIONS

2018

Bad Swimmer, solo exhibition, Circle Culture, Hamburg

Cold Fever, solo exhibition, Galerie Le Feuvre & Roze, Paris

2017

COME ALIVE!, Circle Culture, Hamburg

Salon der Gegenwart, Hamburg

We Invite You To Hope, Kunsthaus Baselland, Muttenz

2016

Thinking Hand, solo exhibition, Galerie Le Feuvre, Paris

C'Est Fini L'Ironie, Carosserie, Basel

Library Street Collective Presents, Library Street Collective, Detroit

Grenzenlos Grausam, Skulpturenhalle, Basel

2015

Invisible College, FWMOA, Fort Wayne, USA

Post Transit Romantics, Make Your Mark, Helsinki

Painters Painter, Golden Hands Gallery, Hamburg

Main Street, Museum Mohammed VI, Rabat, Morocco

There Is A Wolf At The Door, solo exhibition, Kolly Gallery, Zurich

Streunergold, solo exhibition, Die Kunstagentin, Cologne

Past & Future, Kolly Gallery, Zurich

To Change Key, Raemistrasse 44, Zurich

2014

Neue Farbe, solo exhibition, Galerie Neuheisel, Saarbrücken

Graffiti Painter, solo exhibition, Galerie Le Feuvre, Paris

Regionale 14, Städtischen Galerie Stapflehus, Weil am Rhein

Wynwood Walls Miami, Library Street Collective, Detroit

Person, Place or Thing, 68 Projects, Berlin

Galerie At Down, Montpellier

The Code, Galerie Le Feuvre, Paris

The "Z", Library Street Collective, Detroit

NEO Vol 1, Die Kunstagentin, Cologne

2013

Disclosure, solo exhibition, Library Street Collective, Detroit

Public Enemy, solo exhibition, Galerie ABTART, Stuttgart (DE)

Urban Spirit, Gallery Brugier Rigail, Paris

Der Blick Zurück Nach Vorne, Galerie ABTART, Stuttgart

Just In, Association La Lune En Parachute, Epinal, France

Between The Lines, Fabien Castanier, Los Angeles

2012

Beautiful Struggle, solo exhibition, Speerstra Gallery, Bursins

Stuck on the City, City Gallery, Prague

Leave the Beef on the BBQ, Guerreo Gallery, San Francisco

Suspect, Galerie Schöneck, Riehen/Basel

2011

Grow Up!, solo exhibition, Galerie Celal, Paris

Rollercoaster, Gallery Nina Menocal, Mexico

City Leaks, DQE Halle, Cologne

2010

Lost & Found, solo exhibition, Speerstra Gallery, Bursins, Switzerland

Public Provocations II, Carhartt Gallery, Weil/Rhein

Beyond Graffiti, Haus der Kunst, Munich

2009

Karambolage, solo exhibition, Speerstra Gallery, Genève

Work in Progress, solo exhibition, Galerie Roland Aphold,  
Allschwil, Switzerland

Tomorrow ain't Promised, Kunstverein, Heidelberg

Born Under Punches, ABTART, Stuttgart

2008

Urban Feedback, Markthalle, Basel

No New Enemies, Le Botanique, Bruxelles

Gedanken zur Revolution, Spinnerei, Leipzig

Young Blood, Forum Kunst Rottweil, Rottweil

One Man Show, solo exhibition, Pretty Portal, Düsseldorf

2007

Silver & Black Gallery, Utopian Slumps, Melbourne

The Walls Belong To Us, Powerhouse Arena, New York

2nd Hand Smoke, Modart, Cologne

Hand Smoke, Modart, Cologne

# The New York Times

## GRAFFITI AS COPYRIGHT FLASH POINT



Mr. Falkner, better known as **Smash 137**, has shown his pieces in galleries across the United States and Europe. Daniel Bossart

There was a time when graffiti was perceived to be a scourge, a public nuisance made by outlaws who sprayed their work on subway cars then slipped into the shadows, occasionally pursued by the police. But these days, graffiti is having a renaissance and is used by fashion labels and major corporations in their ad campaigns. Rebranded as “aerosol art,” it has now become what it rarely was before: a marketable commodity.

The law, however, is struggling to catch up with the change in taste and culture, especially when it comes to the issue of when graffiti — an ephemeral form of art — deserves the safeguards of a copyright. This month a federal judge in California will entertain exactly that question as he hears oral arguments in a copyright lawsuit that could determine if graffiti wins new protections, or if companies can use it for commercial purposes without having to compensate the artists who create it.

The lawsuit, *Falkner v. General Motors Company*, was filed in January by Adrian Falkner, a Swiss graffiti artist better known as Smash 137, who was commissioned four years ago by the businessman Dan Gilbert to paint a mural on the outdoor elevator shed of a 10-story parking garage he owns in Detroit. The garage, called the Z because of its zigzag shape, was designed both as a place to park your car and as a kind of public art gallery. Two dozen other graffiti artists adorned its walls with their creations, though Mr. Falkner’s piece had a privileged position on the top floor of the structure, surrounded by views of the city’s downtown skyline.

For just that reason, court papers say, a freelance photographer working with General Motors used the mural in 2016 as the backdrop for a series of photos for a Cadillac ad campaign called “Art of the Drive.” G.M. posted the photos on its Facebook, Twitter and Instagram accounts without Mr. Falkner’s knowledge or consent. So he sued the company in Federal District Court in Los Angeles, where the photographer is based, claiming that G.M. had infringed on his mural’s copyright. A hearing to consider arguments in the case is scheduled for Monday.

In theory, federal copyright law grants broad safeguards to graffiti; any original creative work that is “fixed in a tangible medium of expression” is automatically protected by a copyright. But not all graffiti is the same, and the courts have only just started to consider

whether legal distinctions can be drawn between commissioned and unauthorized graffiti; or if a few words scribbled in the bathroom of a bar deserve the same protections as the works of established artists like Mr. Falkner, who has shown his pieces in galleries across the United States and Europe.

In 2014, three graffiti artists — among them Jason Williams, who uses the tagging name Revok — sued the fashion designer Roberto Cavalli, claiming he had infringed on their copyrights by borrowing parts of a mural they had painted in San Francisco's Mission District in a line of clothes, shoes and handbags. The case was settled out of court for undisclosed terms before a judge could consider the merits of the case.

This year, Mr. Williams was engaged in a copyright battle with the clothing company H & M after it used a mural he had painted illegally on a handball court in Brooklyn in one of its ad campaigns. Mr. Williams had sent the clothier a cease-and-desist letter, and in March H & M filed suit against him, asking a judge to declare he had no claim because his work had been made without permission. But before the judge could issue a decision in the case, H & M — facing criticism from the graffiti community — dropped its suit and the ad campaign that included Mr. Williams's work.

Around the same time, in a similar case that hinged on a different aspect of the law, a federal judge in Brooklyn awarded \$6.7 million to a group of graffiti artists who had showed their work for years at the renowned 5 Pointz complex in Queens, which was demolished to make room for luxury apartments. A jury had found that the owner who had given the artists permission to paint on his buildings was liable for destroying their work under the Visual Artists Rights Act, which protects public art of "recognized stature" created on someone else's property.

Mr. Falkner's case is set to turn on another unsettled question of copyright law. Last month, lawyers for G.M. sought to end his lawsuit by claiming in court papers that the company was allowed to use his parking garage mural because of a provision in the law that says images of "architectural works" do not have copyright protections. In their papers, the lawyers argued that the parking garage was itself an architectural work and that Mr. Falkner's mural was not protected under the law because it was "incorporated into a building."

"If the parking structure is a 'building,' then that is the end of the analysis," G.M.'s lawyers wrote. They added: "Joe Public should not be required to research the history of the building and hire architectural experts before he snaps a photograph."

Louis Petrich, the automaker's lead lawyer, declined to be interviewed. But Mr. Falkner's lawyer, Jeff Gluck, who also represented Mr. Williams, disputed G.M.'s line of reasoning.

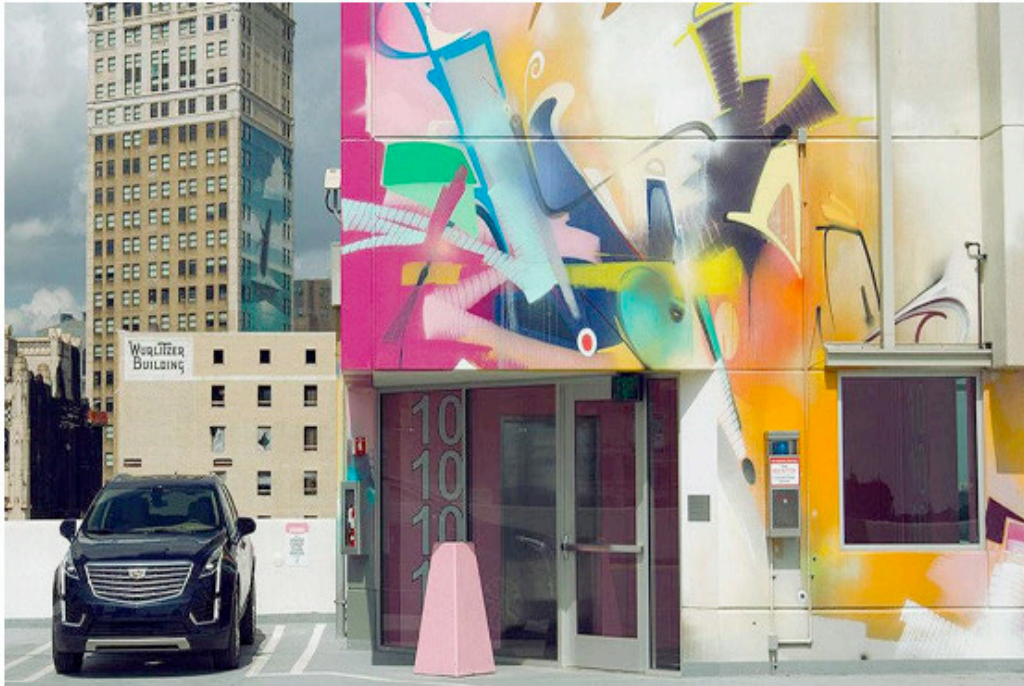
Last week, Mr. Gluck filed his own court papers, suggesting that the architectural exemption was put in place to protect the public from being sued for taking and posting photos of significant structures like the Washington Monument or the Space Needle in Seattle. If a parking garage — even one covered in art — could be construed as a significant structure, Mr. Gluck maintained, it would have widespread implications.

"If GM's view prevailed," he wrote, "all graffiti art that exists on a building — that is, most graffiti art — would suddenly be unprotected by copyright."

## WHO OWNS GRAFFITI?

### A JUDGE ALLOWS A STREET ARTIST'S LAWSUIT AGAINST GENERAL MOTORS TO MOVE FORWARD

The decision could set a precedent for how we depict buildings that contain street art.



GM used this photo featuring a mural by Adrian Falkner, also known as SMASH 137, in a 2016 ad campaign on social media. Photo courtesy of GM.

The Swiss street artist Adrian Falkner, also known as Smash 137, will have his day in court with General Motors. A federal judge in Los Angeles has rejected GM's attempt to dismiss the artist's claim that the automaker infringed on his copyright when it included a photo of one of his murals in its 2016 Cadillac ad campaign.

Falkner's attorney, Jeff Gluck, told the Detroit Free Press that the move was "a massive victory for artists' rights." A ruling in the artist's favor could set a precedent for future lawsuits in connection with the unauthorized reproduction of graffiti art.

A photo featuring Falkner's 2014 mural on a Detroit building facade was promoted on Facebook, Instagram, and Twitter in GM's "The Art of the Drive" social media campaign. Even though it was not part of GM's larger advertising strategy for the Cadillac XT5, Falkner argued in his complaint that the image was likely seen by millions of people and "damages his reputation, especially because he has carefully and selectively approached any association with corporate culture and mass-market consumerism."

GM had argued that its use of Falkner's mural was legal because copyright law allows photographic depictions of architectural works. "This right to photograph an architectural work extends to those portions of the work containing pictorial, graphic, or sculptural elements," the company argued in a July legal filing. "Because [Falkner's] mural is painted onto an architectural work, it falls squarely within the 'pictorial representation' exemption, and his copyright infringement claim should be dismissed."

The judge looked at a similar case in which artist Andrew Leicester sued Warner Brothers for filming the courtyard of a building that housed his sculptural work, which appeared in *Batman Forever*. That case was decided in favor of Warner Brothers because Leicester's work was designed in tandem with the rest of the structure, and were thus considered part of the architectural design.

Falkner, on the other hand, created his mural after the parking garage was completed. In his ruling, Judge Steven Wilson noted that the artist "was afforded complete creative freedom with respect to the mural, and... was not instructed that the mural should play a functional role with respect to the parking garage or that the design of the mural should match design elements of the garage." Because Falkner's mural is not being considered a part of the architecture his copyright infringement claim can be heard.

"Graffiti artists often aggregate their work on public and private property," says Sam P. Israel, an attorney who specializes in intellectual property law but is not involved in this case. "If GM loses the trial and the plaintiff's graffiti is deemed to have a copyrightable identity separate from the architectural configuration, it boggles the mind to think of the licensing costs for depicting architecture that's been enhanced by multiple artists."

The judge did dismiss two of Falkner's claims, however, including one for punitive damages. The artist could still win up to \$150,000 at trial if GM is found to have willfully infringed his copyright, plus any actual damages.



# Graffiti und Gerechtigkeit

Von Michael Bahnerth — Der Basler Künstler Adrian Falkner alias Smash 137 war einst einer der besten Sprayer der Welt. Heute macht er sich einen Namen als Kunstmaler. Schneller bekannt werden dürfte er wohl wegen eines Prozesses, den er gegen den Autokonzern General Motors führt.

Es gab mal einen Sprayer, der nannte sich Smash 137. Er war nicht der Talentierteste, das sagt er selber, aber er war der Leidenschaftlichste vielleicht, der Konsequenzteste, und so wurde er doch der Mozart des Sprayens.

Er war, wenn man so will, wie eine Spraydose, die am Tag und vor allem in der Nacht endlos sprühte. «Bombing» heisst das Besprühen von nackten Wänden oder Zügen, es ist natürlich strafbar, und die wirklich ernsthaften Sprayer sind alle vorbestrafte Künstler und immer wieder mal auf Bewährung, weil sie nicht aufhören können. Weil Sprayen eine Sucht ist. Man nennt Sprayer auch Aerosol-Junkies.

Smash nannte sich Smash aus zwei Gründen. Der erste war, dass «Smash» fünf Buchstaben hat, während der Branchendurchschnitt bei vier liegt. Vier Buchstaben sind einfacher und sprayen sich schneller, fünf sind Champions League. Dann sind in «Smash» zwei S, und S ist der Lieblingsbuchstabe von Adrian Falkner, wie er wirklich heisst, weil im S eine halbe Unendlichkeit liegt. Der Zusatz «137» hat keinen bedeutungsvollen Zusammenhang. Später in Interviews sagte er gerne, das seien zwei Funkfrequenzen, die 1 und die 37, auf denen sich die Sprayer untereinander per Funk vor der Polizei warnten – aber das war nur eine Legende.

## Spirit des Sprayens

2014 war Smash 137 ganz oben, gehörte zu den Top-Sprayern der Welt, obwohl er gerade dabei war, sich selbst von Smash abzulösen. Er hatte die Grenzen des Sprayens mehrmals erweitert, die Abstraktion und Dekonstruktion von Buchstaben in ihre begrenzte Unendlichkeit geführt und eine neue Schrift erfunden. Er fühlte «keinen Grip mehr, wenn er eine Linie zog, keine Ernsthaftigkeit», und das war das Ende von Smash. Dann war es wie immer, die Hunde bellten ein wenig – die Szene, der Kunstmarkt –, aber die Karawane zog alleine weiter durch die Wüsten des Kreativen auf der Suche nach Brunnen oder gar Oasen. Heute ist Smash Adrian Falkner und ein internationaler Kunstmaler. Er kann von seiner Kunst leben.

Für den einen oder andern ist er ein Abtrünniger. Weil er einer der Ersten war, der Graffiti von draussen nach drinnen brachte, von nackten Wänden auf Leinwände. Er habe so den Spirit des Sprayens verraten. Graffiti müssten

draussen bleiben, so die gängige Meinung. Die Vorwürfe waren so eindimensional wie jene Menschen, die Sprayen stets als einen Akt der jugendlichen Rebellion begriffen. Natürlich ist das mutwillige Verändern von Umgebung, das Besprayen von Wänden und Zügen ein ansatzweise rebellischer Eingriff, zumal er auch strafrechtlich relevant ist, aber wirkliche Rebellion geht anders. Politisch war das Sprayen ohnehin nie; Tags haben keine Botschaft, ausser jene des individuellen und hedonistischen Selbstverwirklichens. Sprayer sind Kunstmaler, junge und wilde zwar, aber es sind klassische Maler.

## Optimale Selbstverwirklichung

Falkner hat nicht nur in der Szene gelebt, er war die Szene. Wenn er nicht sprayte, fühlte er



Farbe des Glücks: Smash-137-Werk, Downtown Detroit.

die Einsamkeit des Todes, und um leben zu können, brauchte er Spraydosen. Er kaufte sie, indem er sie in einem Laden verkaufte, jahrelang ging das so, und jetzt, wenn er es rückblickend erzählt, klingt es sehr nach Bohème, nach Ungebundenheit, nach optimaler Selbstverwirklichung unter erschwerten Bedingungen. Tagsüber stand er im Laden, zeichnete Skizzen, perfektionierte seine eigene Schrift, und wenn es Nacht wurde, zogen er und seine Jungs los und brachten Farbe ins Dunkel. Noch geiler als nackte Wände sei es, Züge zu besprayen. Weil sie mobile Kunst sind, gesehen werden. Und wenn es Morgen wurde nach einer durchgesprayten Nacht, gingen die Sprayer hin und schauten sich bei Tageslicht ihre Œuvres an und machten sich dann an das nächste. Manchmal machte ihnen die Polizei

einen Strich durch ihre Linien, und es gab kleine Verfolgungsjagden, und wenn sie Pech hatten, verbrachten sie den Rest der Nacht auf einem Polizeiposten.

Falkner wurde ein paarmal verurteilt, und es wurde zu heiss, in der Schweiz weiterzusprayen. So zog der Mann, dem schon als Neunjähriger klar war, dass er mal sprayen werde, der Bahnhofunterführungen in Lausen und in Liestal, Züge in Basel, die *line* vor dem Basler Bahnhof besprayed, und zwar ganz vorne, zu den ausländischen Wänden in Barcelona oder São Paulo. Graffiti waren in der Zwischenzeit zwar immer noch illegal, aber salonfähig geworden. Die Besten aus dem künstlerischen Aerosolreich wurden gebucht, eingeladen, Privateigentum zu besprayen. Marketingabteilungen multinationaler Un-

ternehmungen entdeckten das Graffiti als coolen Werbeträger für Kids; Geld kam in die Szene, und das Sprayen verlor zwangsläufig sein Jungfernhütchen.

## Urmutter aller Formen

Natürlich gehörte Falkner zu den ausgewählten Sprayern und reiste umher und sprayte, was das Zeug hielt, bis zu dem Punkt, da er fühlte, dass seinen Linien nicht mehr die Kraft inne wohnte, die einst in ihnen zu Hause gewesen war. Zwei Jahre lang, zwischen 2015 und 2017, bewegte er sich zwischen «Tisch und Bank». Zwischen Sprayen und Malerei, zwischen draussen und drinnen.

Zwei Jahre lang war er auf der Suche, und das Problem war, dass er sich vom Formalen, dem Hieroglyphischen des Sprayens, lösen wollte, die Lösung aber im Formalen suchte. Nach zwei Jahren merkte er, dass zwischen Tisch und Bank ein ganzes Universum voller Freiheit liegt. Falkner entdeckte den Kreis, die Urmutter aller Formen.

Adrian Falkner zu sein, ist ein unermüdlicher Dekonstruktionsprozess mit progressivem Wiederaufbau. Er ist 38 Jahre alt, die dritte Dekonstruktionsphase seiner Kunst ist gerade abgeschlossen, und er befindet sich im Aufbau einer neuen Ausdrucksweise, die er in ein paar Jahren erneut hinter sich lassen wird. Seine Kreis-Phase, so scheint es, zeigt bereits die ersten Auflösungserscheinungen.

Man kann nicht sagen, dass Falkner ausserhalb der Sprayerszene ein allseits bekannter



**Universum voller Freiheit:** Adrian Falkner in seinem Atelier in Basel.

Künstler ist. Das kommt wahrscheinlich noch, vielleicht, wenn die Farbe des Glücks seine Leinwand findet. Gerade ist er der Künstler, der gegen den Automobilkonzern General Motors klagt, was ihn dieses Jahr kurz in die Schlagzeilen brachte.

Falkner, der damals noch ein wenig Smash war, wurde 2014 eingeladen, einen Teil der Z-Lot-Garage in Downtown Detroit, eines zehnstöckigen Parkhauses zu besprayen und man sieht seinem Bild an, dass die Abstraktion der Buchstaben einherging mit seiner Ablösung von ihnen. Es war ein bisschen so, als ob er Buchstaben malte, ohne Buchstaben zu gebrauchen. Zwei Dutzend internationale Sprayer brachten dort ihre Werke an, Falkners ist ganz oben, die beste Lage.

### **Auto klein, Graffito gross**

General Motors (GM), die auch aus Detroit kommt, wollte ihren neuen Cadillac, den XT5, auf den Social Media bewerben, parkierte ihn

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### **GM setzte ungefähr so viele Anwälte auf den Fall an, wie es Graffiti an der Z-Lot-Garage gibt.**

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neben Falkners Graffito, liess das Ganze fotografieren und titelte: «Art of the Drive». Das Auto klein, das Graffito gross. Falkner wusste nichts davon. Keine Anfrage von GM, kein Angebot, keine Einwilligung seitens Falkners.

Anfang des Jahres stiess Falkner auf die Werbung und verklagte GM wegen Verletzung des Urheberrechtes. Das ist nicht neu. 2014 klagten drei Sprayer gegen den Modedesigner Cavalli, der ihre Werke kopierte und als Muster für seine Kleider und Schuhe verwendete. Die Parteien einigten sich damals noch vor der ersten Verhandlung auf einen Vergleich. Wie viel Geld floss, ist nicht bekannt. Der Anwalt der Sprayer hiess damals Jeff Gluck, ein Spezialist für Urheberrechtsschutz von Street-Art, und er ist jetzt Falkners Anwalt.

GM setzte ungefähr so viele Anwälte auf den Fall an, wie es Graffiti an der Z-Lot-Garage gibt, und vertrat den Standpunkt, dass Wandgraffiti, eine vergängliche Kunst, keinen Urheberschutz geniessen würden. Auf einen Vergleich vor der ersten Anhörung liess sich GM nicht ein, und die bei der ersten Anhörung geforderte Summe der Klägerpartei wies GM zurück. Es sieht so aus, als ob der Fall vor ein Geschworenengericht kommt.

Falkner sagt nicht viel dazu, das Eisen ist zu heiss, im Hintergrund spricht sein Anwalt mit den Anwälten von GM. Um wie viel Geld es geht, ist nicht ganz klar, aber der Betrag dürfte den Wert einer Handvoll Cadillacs XT5 übersteigen. Die kosten rund 50 000 Franken in der Grundausstattung. Alles, was man in dieser Causa sagen könnte, ist: «No cash, no Smash».