

FUNimation's Stance¹ On Fan Art

At law, a fan-created artwork that is clearly based on existing artwork owned by a copyright holder other than the fan (e.g. FUNimation), is considered an unauthorized “derivative work” or an unauthorized reproduction (by substantial similarity) and therefore infringes the copyright holder’s rights under 17 U.S.C. § 106.

Despite FUNimation’s legal stance on this issue, FUNimation appreciates the entertainment, education and skill that goes into and arises from the imitation and creation of works derived from existing works of popular manga and anime. FUNimation likewise realizes that the “Artist Alley” area of most conventions can be a good showcase for these works and therefore FUNimation tends not to enforce its copyright rights against those in Artist Alley who may be infringing FUNimation’s copyright rights.

FUNimation’s trademark rights, on the other hand, cannot go unenforced. This stems from a key distinction between U.S. Copyright Law and U.S. Trademark Law—in short, if copyright rights are not enforced, the copyright stays intact and the copyright holder generally will not suffer any harm beyond the infringement itself. But if trademark rights are not enforced, *the trademark can be cancelled*. Because of this difference, FUNimation *cannot knowingly tolerate unauthorized use of its trademarks*, such as use of trademarks in conjunction with the display or sale of works whose creation is likewise unauthorized. This means that FUNimation will take action if it or its agents discover unauthorized works, including fan art, which include a FUNimation-owned/licensed trademark within the work or are on display in conjunction with signage bearing a FUNimation-owned/licensed trademark. Note that the trademarks FUNimation is primarily concerned with are brand names and logos.

As to the Dealer’s Room, FUNimation strictly enforces both its copyright rights and trademark rights, almost without exception. This applies to works that are believed to be counterfeit, unlicensed or fan-created.

¹ Please do not construe this document as legal advice. This document merely represents FUNimation’s stance on the issues and laws presented herein. Additionally, please understand that the views and practices of other copyright holders may differ significantly.