Calif. artist sues AP over image of Obama

By LARRY NEUMEISTER Associated Press Writer

Feb 9th, 2009 | NEW YORK -- An artist who created a famous image of Barack Obama before he became president sued The Associated Press on Monday, asking a judge to find that his use of an AP picture in creating the poster did not violate copyright law.

The lawsuit filed in U.S. District Court in Manhattan said Los Angeles street artist Shepard Fairey did not violate the copyright of the April 2006 photograph because he dramatically changed the nature of the image.

The AP has said it is owed credit and compensation for the artist's rendition of the picture, taken by Mannie Garcia on assignment for the AP at the National Press Club in Washington.

Lawyers for Fairey acknowledged that the artist used the photograph. But they said he transformed the literal depiction into a "stunning, abstracted and idealized visual image that creates powerful new meaning and conveys a radically different message."

AP spokesman Paul Colford said the company would have no immediate comment until its lawyers reviewed the lawsuit. The AP had said in a statement last week that it was in discussions with Fairey's attorney and hoped for an amicable solution.

The AP has not taken legal action against Fairley. But the lawsuit noted that the AP had threatened twice to sue Fairey, possibly as early as Tuesday, and that it considered all works that incorporate the imagery of the "Obama Hope" poster to be infringements of its copyrights.

The lawsuit said the purpose of the photograph documented the day's events while Fairey's art, titled "Obama Progress" and "Obama Hope," was meant "to inspire, convince and convey the power of Obama's ideals, as well as his potential as a leader, through graphic metaphor."

Fairey's image became popular on buttons, posters and Web sites. It showed a pensive Barack Obama looking upward. It was splashed in a Warholesque red, white and blue and underlined with the caption HOPE.

The lawsuit noted that Fairey first began distributing his Obama images in early 2008 and that Obama thanked him in a Feb. 22 letter for his contribution to the presidential campaign.

The lawsuit was brought on Fairey's behalf by the Stanford Law School's Fair Use Project and a San Francisco-based law firm.

"There should be no doubt about the legality of Fairey's work," said Anthony Falzone, executive director of the Fair Use Project. "He used the photograph...

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Falzone, executive director of the Fair Use Project. "He used the photograph for a purpose entirely different than the original, and transformed it dramatically."

The lawsuit was filed on the same day that Fairey appeared in a Boston courtroom, where he pleaded not guilty to charges he tagged property with graffiti. He allegedly vandalized the property last month as part of one of his street art campaigns.

"It's a suppression of an artist's freedom of expression," Fairey said of the AP lawsuit before his attorney, Jeffrey Wiesner, advised him not to say anything else.

The 38-year-old Los Angeles resident was arrested Friday when he was in Boston for an event kicking off his exhibit at the Institute of Contemporary Art.

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Associated Press Writer Russell Contreras contributed to this report from Boston.