

SHOULD COPYRIGHT BE AN ISSUE FOR AMATEUR ARTISTS?

When the issue of copyright is raised, painters find it complicated, confusing and even a little boring. From complete beginners to experienced artists, they cannot see how the laws regarding copyright apply to them.

Copying paintings, and those of great artists, has always been a part, but only a part, of learning how to draw and paint. Copies of other artists work kept as personal reference are fine. A copy, signed with the copyist's own name, being offered for sale or entered into an art competition in an attempt to pass of the copy as an original work is illegal. *It is theft of intellectual property, as well as unethical.*

So why copy? Do some people feel safer making copies? Clearly they enjoy the process of painting but they may lack the self confidence to believe that their own efforts are of a high enough standard. The very fact that they have picked up a paint brush is evidence that there is a creative spark hidden there somewhere. The secret of gaining confidence and developing that hidden talent is to have the discipline to regularly practice drawing at every available opportunity, not only in formal classes or workshops but also informally. Artists are busy people but they should make it a habit to use a sketchbook. There is no greater satisfaction than to capture a scene, person or object as a future source of reference and to use that material as inspiration for a completed painting which is unique to them, the artist.

Some questions which are often asked about Copyright.

1. *Is it acceptable for me to change another artist's work a little and to then exhibit the copy?* The answer is NO. Imagine the scene with the original and a copy placed side by side in a court of law. If the court decides that the work looks like the original with a little added or removed then you have infringed copyright law and will be exposed to the full penalty of the law.

2. *Will anyone notice that my work is a copy?* Often, the answer is YES. Exhibition judges, art patrons and other artists have an excellent memory for visual images. They will not be deceived. Do not risk your integrity, your reputation and your entry fees. The statement, "**No copies**", on an entry form means just that! Unfortunately some painters appear to think that it

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does not apply to them. Finding a beautiful photograph or painting in a magazine, calendar or art book and copying it with their own hand by applying paint to a board or canvas does not transform it into their own original art. It is still another artist's concept. That artist did the hard work and will still own the copyright. It is illegal to offer a copy as your own work, as well as unethical, and self delusional!

3. *Is it legal to copy the work of a deceased person?* Copyright automatically comes into being when a work is completed or a photograph is first published. Copyright exists during the lifetime of the artist or photographer and for a further 70 years after their death. Copies of the paintings of "Old Masters" done centuries ago are legitimate to offer for sale provided you do the right thing. It is vital to acknowledge that it is a copy by putting, for example, "After Joe Master 1620, *followed by your Name*" on the front of the copy. Once you have done this you will automatically own the copyright of your copy even if you sell the painting. It does not pass to the buyer unless you sign a contract to sell the copyright.

4. *Is it sufficient to obtain permission to copy another person's work?* Exercise caution here. It is all very well to believe that you have legitimately obtained permission verbally or even in writing but it can be very difficult to establish who actually owns the copyright. Years pass, people move on and memories fade. You may sometimes see "Royalty Free" on internet images but be careful since royalty and copyright are very different things in law. Royalty free means that you do not have to pay a fee to use the image but you must still acknowledge the source of the image for copyright purposes. Anyway, why should the legitimate owner of the copyright give you permission? They may have sold an original work but could still be earning substantial fees from reproductions. Famous people such as film and TV personalities or stage performers (or their estates, after they are deceased), as well as fashion models can have copyright on their looks, since their physical attributes are a major source of a substantial income and their visual image is jealously guarded. Some "personalities" may eagerly seek publicity but ensure that permission is in writing and do guard against them changing their minds should the trappings of success eventually become unwelcome. They will almost certainly have more expensive lawyers than you can afford to defend you in a court action.

5. *I paid good money to attend workshops and classes, so why can't I offer the output for sale?* Art tuition undertaken over several years to obtain a

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formal art qualification can be very expensive. Many students opt for shorter courses of study with art classes, and/or benefit from weekend workshops. They appreciate the security of being able to follow the step by step demonstration of the tutor's skill and methods. Their expectation is often to take away a finished painting at the end of each session, hopefully one that is of a high enough standard to offer for sale. However, even if the tutor offers permission for you to do so it will almost certainly be a verbal permission and in any case *it is advisable not to take up the offer*. Imagine the reaction if students enter their painting at the same art show, and the tutor enters *his same* original image, or, which has also actually happened; two artists have copied the same image from the same source; entered them in the same exhibition, only to find it displayed side by side!!! Yes, this did happen at a local Art Award exhibition! It may be a source of amusement to some, but it could, at the very least, be very embarrassing, so don't be tempted to do it.

6. Why should I try to develop my own style of painting original art work?

When an artist creates an image from their own imagination, sketches, photographs, or a combination of all of these, something unique can happen. The painting will have a special quality to it, an inner energy and life because it will have been painted with conviction, even passion, coming from an inspiration close to the painter's heart and soul. Exhibition judges and potential buyers will sense the honesty that went into the work and will prefer it, even if it has some imperfections, to an otherwise perfect but lifeless copy of another person's original. Have faith in your own potential. Every artist is unique which is what is so exciting about art and what makes painting so wonderful as something to get involved in. If you belong to an art group, *don't feel pressured that you have to exhibit and offer your work for sale until you are comfortable about doing so*. Relax, enjoy the process of developing your own unique artistic skills and others will recognise your ability, by wanting your work, giving awards in art exhibitions, or by paying you the ultimate compliment and buying your work!

Regards,

Bob Gurney *(with the kind assistance of Sandra Turnor-Browne and Anthony Eden)*

Further information can be gained from Australian Copyright Council:

www.copyright.org.au

Arts Law Centre of Australia: www.artslaw.com.au and various other sites on Copyright.