

INFORMATION ON ORIGINAL ART AND COPYRIGHT FOR ARA MEMBERS

Originality means that created or invented works are completely new, and thus should be distinguished from reproductions, clones, forgeries, or derivative works. An original work is one not conceived by others nor one copied based on the work of others. The term "originality" is often applied as a compliment to the creativity of artists, writers, and thinkers.

Originality in law

Copyright law protects only *original* works of authorship, a property which has been historically and legally linked to a concept of "creativity". A work must pass a threshold of originality in order to be copyrightable.

Original idea

An original idea is one not thought up by another person beforehand. Sometimes two or more people can come up with the same idea independently.

COPYRIGHT INFORMATION

What is copyright? Despite numerous articles spread across the internet, discussion in books, on TV and in magazines some people still do not seem to understand copyright.

How do you get copyright?

The moment you take a photograph or paint a picture you automatically own copyright to that image. You do not have to register it. You do not have to do anything at all. It is yours. There are no exceptions. But you can choose to give up your copyright by signing a contract with your employer, an agency or an individual to pass copyright over to them. The point is you have to enter to give up your copyright; however, it is a good idea to catalogue your works and keep a record of the dates they were done to protect you from those who would copy your works in the future.

What does having copyright mean?

It means that nobody can copy your image and use it without your express permission. Even if the person for example copies your image and gives you a credit and links back to you, they are still breaking the law. It is illegal to copy someone else's work. You also infringe on copyright if you take someone else's picture and change it, for example by giving it a treatment in Photoshop or including it in a collection of other images or a mosaic. It does not matter if you have no intention of making money from the copied image. You infringe on copyright the moment you make a copy of someone else's work.

What is the difference between copyright and plagiarism?

Copyright infringement is not the same as plagiarism. "While both terms may apply to a particular act, they are different transgressions. Copyright infringement is a violation of the rights of a copyright holder, when material protected by copyright is used without consent. On the other hand, plagiarism is concerned with the unearned esteem that is achieved through false claims of authorship."-In other words plagiarism would occur when you make a piece of art which is substantially similar to someone else's work.

Exceptions

You do not infringe copyright when you click on an image and it downloads to your internet browser and is stored in the memory cache on your hard disk. But, if you then take that image and use it in a PowerPoint show, a Word document, on your blog, website, email it to someone else or use it in any other form, *even if* you substantially alter the look of the image you are *infringing* on the original authors copyright.

The consequences

If you infringe on copyright you are breaking the law. There are legal and financial consequences. Some companies, agencies and individuals pursue their copyright vigorously in court and are awarded huge sums of money in damages. The precise award depends on the circumstances of the case. If you stick to the advice above you will not infringe on anyone's copyright. Enjoy looking at photographer's images and artist's paintings but don't use them!

Commercial Rights

Commercial rights can be a very murky term when corporate lawyers get involved. However, a general explanation would be that commercial means any endeavor designed to create income by a commercial entity. Some examples would include: a sales brochure, magazine, advertisement, or billboard.

Non-Commercial Rights

Non-commercial rights would be items that are not designed to create significant income or use by individuals or other non-corporate type groups. Things such as church bulletins, or someone printing an image to put on their school binder would be non-commercial usage.

First Rights

When the word "first" is placed in front of other rights it simply means that the entity purchasing these rights gets to use the image BEFORE anyone else who has purchased license rights.

Serial Rights

Serial rights apply to magazines. This means that the magazine is licensing the right to use the image in magazine format. In other words, if you sell serial rights to magazine A you can't sell licensing rights to magazine B as well (unless you only sell "FIRST" rights - then you can sell more rights later).

Non-Exclusive Rights

Watch out for this clause. Non-exclusive rights can be a reasonable license to sell but they can also be a quick way to lose the use of your image. Non-exclusive rights mean that the licensor has a specific set of rights at the same time someone else has them. The problem is that this clause is usually followed with a large amount of specific rights and many companies use this type of clause to allow them to reprint and resell your work on their own. Be careful of this.

One Time Use Rights

I love one time use rights. It's very easy to manage. One time use means that the entity buying the license can use your image "one time", for one specified project.

Properly Copyright Your Original Artwork and Digital Photos

Many artists and photographers include a copyright notice in the footer of their work; some even overlay their copyrights with a watermark. It may seem like a no-brainer at first, but consider the following three rules:

1. Include the copyright symbol: ©
2. Include the year, or more precisely the date on your photo or art
3. Include your professional business name so you can be easily contacted

Where to find Canadian Copyright Laws

http://www.bdc-canada.com/BDC/articles/Copyright/Copyright_Guide_11_1.htm