



Protecting Your Art

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Overview

- What is art?
- Why do you produce art?
- Why should you protect it?
- How can you protect it?
- What is copyright?
- What are some other legal issues concerning your art?
- Visual Artists Rights Act
- Q&A

Who are you as an artist?

- What is art? Who defines art?
 - The law is not an art critic!
- Why do you produce art?
 - To express yourself...
 - To send a message...
 - To document history...
 - Other...

Why should you protect it?

- Artistic interests.
 - Creativity
 - Reputation
 - ??
- Commercial/business interests.
 - Licensing
 - Marketing
 - Sales

How can you protect it?

- The Law
 - But you need to think of it ahead of time – this is a tool in your art box.
 - You need to learn or have the resources accessible to you. (The Artist Legal Team)

What is Copyright?

- **What is copyright?**

Copyright is a form of protection grounded in the U.S. Constitution and granted by law for original works of authorship fixed in a tangible medium of expression. Copyright covers both published and unpublished works.

What is Copyright?

- **What does copyright protect?**

Copyright, a form of intellectual property law, protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed.

What is Copyright?

- **When is my work protected?**

Your work is under copyright protection the moment it is created and fixed in a tangible form that is perceptible either directly or with the aid of a machine or device.

- **Do I have to register with your office to be protected?**

No. In general, registration is voluntary. Copyright exists from the moment the work is created. You will have to register, however, if you wish to bring a lawsuit for infringement of a U.S. work.

How do you Protect in Other Countries?

- **International Treaties and Agreements**

- WIPO – World Intellectual Property Organization

- **Copyright Offices in Other Countries**

- **EU Commission**

- http://ec.europa.eu/internal_market/copyright/index_en.htm

- **Madrid Protocol**

How do you protect in other countries?

- United Nations Educational, Scientific & Cultural Organization (UNESCO)
 - http://portal.unesco.org/culture/en/ev.php-URL_ID=33305&URL_DO=DO_TOPIC&URL_SECTION=201.html

Other Legal Issues?

- Public Domain
- Work Made for Hire
- Appropriation
- Fair Use

Other Legal Issues?

- Standards of Obscenity and Censorship
 - Not all countries have First Amendment Rights as in US.
 - Not all state agencies have the same appreciation for certain kinds of art.
 - Decency and Respect – what do they mean in the country/culture you are considering?
 - Some countries culturally stricter than others
 - Do your research so as not to offend and to get good reviews and sales

Other Legal Issues?

- Exhibit Concerns
 - Transportation
 - Insurance
 - Catalogue (Photos of Art Work)
 - Online Availability of Images
 - Contract
- Sale Concerns
 - Who represents you?
 - Silent Auctions/Tax Incentives
 - Paying Tax on Income for Sales
 - Documentation – Bill of Sale, Authenticity Letter

Visual Artists Rights Act

- The **Visual Artists Rights Act of 1990 (VARA)**, [17 U.S.C. § 106A](#), is a [United States](#) law protecting artist rights.
- VARA was the first federal [copyright](#) legislation to grant protection to [moral rights](#). Under VARA, works of art that meet certain requirements afford their authors additional rights in the works, regardless of any subsequent physical ownership of the work itself, or regardless of who holds the copyright to the work. For instance, a painter may insist on proper attribution of his painting and in some instances may sue the owner of the physical painting for destroying the painting even if the owner of the painting lawfully owned it.

Visual Artists Rights Act

- Right to claim authorship
- Right to prevent the use of one's name on any work the author did not create
- Right to prevent use of one's name on any work that has been distorted, mutilated, or modified in a way that would be prejudicial to the author's honor or reputation

Visual Artists Rights Act

- Right to prevent distortion, mutilation, or modification that would prejudice the author's honor or reputation
- Additionally, authors of works of "recognized stature" may prohibit intentional or grossly negligent destruction of a work.

Resources

- US Copyright Office
 - <http://www.copyright.gov/>
- Copyright Registration for Works of Visual Art
 - <http://www.copyright.gov/circs/circ40.pdf>
- Law2sm
 - www.law2sm.com

Q&A






