



**Your Art,
The World, &
The Law**

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Overview

- Definition of Art
- How do you protect in US?
- How do you protect in other countries?
- International Concerns of Art
 - Standards of Decency/Censorship
 - Moral Rights vs. Visual Artists Rights Act
 - Other
- Q&A

Art Knows No Boundaries

- Art as a creative endeavor,
- Art as an article of commerce,
- Art as a significant cultural artifact.

~ Southwestern Law School

Definition of Art

- Who defines what is art in the global market?
- Who defines what is “appropriate” art in the global market?
 - Cultural Concerns
 - Heritage Restrictions

How do you protect in US?

- **Copyrights**
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 Copyright covers both published and unpublished works.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?

- **When is my work protected?**
Your work is under copyright protection the moment it is created and fixed in a tangible form that it 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

International Concerns

- Standards of Obscenity and Censorship
 - Not all countries have First Amendment Rights
 - 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 good reviews and sales

Morale Rights vs. VARA

- Morale Rights automatic in Europe.
- Berne Convention for the Protection of Literary and Artistic Works (Paris, 1971)
- 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.

International Concerns

- Resale Rights – Droit de Suite
 - Artist resale royalty right (Italy, France, etc.)
 - Not in US which has “first sale” doctrine
 - Except in CA (limited application)
- Import/Export Regulations
 - Tariffs, customs, etc.

International Concerns

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

International Concerns

- Exhibit & Sales Concerns (cont)
 - Documentation
 - Bill of Sale
 - Authenticity Letter
 - Exhibit/Sale Representation Contracts

International Concerns

- Appropriation
 - Copyright Restoration of Foreign Works from Public Domain
- Art Theft/Crime
 - Interpol
- International Online
 - Tax concerns
 - Transport

Q&A





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