

FAIR POLICY FOR VISUAL ARTISTS

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In discussing Artist equity's view regarding the fair policy of original art vs. reproductions, we must start with the technological shift in the society that created a global market for almost everything created today.

Artists Equity's purpose is to work collectively with individual artists, for their rights and to establish fair guidelines for both artists and art related organizations. It is a disturbing fact that in today's market there is an abundance of non-copyrighted works of art selling for cheap prices. How do we control this and does it affect the original Art Market? Also, how do we look at original works of art and reproductions, and define the terms in this Age of Digital Reproductions?

When we talk about Reproductions in general, we also have to look at the many aspects of technological growth. There is a dispute among many people caused by the massiveness of cultural productions and consumption; the technical innovations in reproduction, imitation, adaptation, and transformation in all areas of art. Presently, the mediums of art are extremely numerous as is the abundance of technological capability for making reproductions.

THE DIGITAL AGE:

Geographically separated Artists are collaborating and artworks are presented and sold on the World Wide Web. Using digital technology to create art can influence the artist's ideas, attitudes and perceptions, resulting in the possibility for a change in the content, form and context of the artwork.

Internationally known artists like David Hockney and Richard Hamilton use digital print technology, and digital prints are exhibited at well-reputed museums.

Giclées and digital inkjets have only been considered Fine Art Prints for a little more than a decade. CRA productions, Digitographs and Repligraphs are High Tech Digital Photographic Canvas Printing/ Transfer Systems. They use oil base canvas sublimation techniques for up to a 44" x 94" size canvas. When enhanced by the artist, they are nearly indistinguishable from the original, and they are acknowledged to be an original work of art. The Repligraphs are easily enhanced with the use of oil or acrylic paints, allowing the artist/photographer to create high quality customized canvas editions. The latest in the series of Subligraphs, are considered of archival quality that use Repligraph technology in conjunction with long-lasting, durable dye pigment inks. Subligraphs also

allow printing on heavy textured, primed canvas, and claim to have hundreds of years of longevity. These reproduction technologies do not come with a cheaper price tag!

Printmaking has always been closely linked to technological development, since it is between the hand-made and mechanical reproduction, between the creative and the technical process, between art for its own sake and commercial possibilities. During the Middle Ages engraving and etching were added to the woodcut. At the beginning of the nineteenth century lithography made its appearance. Lithography opened up a new stage of reproduction in the art market; it not only produced large numbers but also allowed changing of forms.

Digital painting applications make it possible to use a mouse or a stylus with a graphic tablet, for freehand drawing and painting. A program like Painter is designed to reproduce, in great detail, effects associated with natural media such as oil, watercolor, pastels, pencil, charcoal etc. More brushes are added in every new release of these applications. With the proper surface treatment, it is possible to paint with oil or acrylic on top of the printed image to produce a new individual 'mixed media' piece.

The increasing number of applications made by artists in the last few years clearly demonstrates an impact on printmaking, photography and painting, resulting in an evolution of new ideas. As a consequence, there is a shift from the conventional techniques towards creation of concept-led digital art.

The question arises whether digital painting on canvas can be regarded as a painting? Works by artists who employ untraditional tools, materials and methods, are still addressed as 'paintings'. If it is a painting when John Hoyland splashes the paint on a canvas, Peter Blake uses gloss house painting, Roy Lichtenstein uses Ben Day dots and Andy Warhol uses stencils, then it can be argued that artwork 'painted with pixels' using digital print technology also can be considered a 'painting'.

A painting, formerly unique and one of a kind, can now be reproduced by using digital camera or scanner through computer, and then the digitized painting can be exhibited on a virtual web-gallery, opening up a broader audience and market for the artist. World Wide Web is an easy and cheaper way for an individual artist to market art and across geographical boundaries. These new technologies are providing a bargaining power to the artist. They can reach large Museums or Galleries in distant places and show whole portfolios through internet. 35 mm slides are replaced by digital images in CD or DVD by most of the contemporary galleries and art centers for juried shows.

Digital technology will not replace the traditional ways of art; instead it will open a new concept, creating synergy and synthesis between the conventional methods and new processes, opening up new areas of mixed media art.

THE QUESTION OF ORIGINALITY AND AUTHENTICITY

Originality and Authenticity is the area where we are trying to create a fair policy for the Artists.

With the advent of printmaking techniques, copying became easier. The development of the photomechanical process in the nineteenth century made possible the mechanically copying of artworks. In the twenty-first century, digital technology addresses the topic in a different way, 'art designed with reproducible nature'.

The widespread use of internet and World Wide Web are smudging the idea of authenticity and ownership, across the borders of countries. The digital possibilities along with the combined use of Internet and World Wide Web are actually bringing art more closer to people and more democratic than Walter Benjamin could anticipate. In the essay "The Work of Art in the Age of Mechanical Reproduction" (1936), Walter Benjamin talks about "aura" of the work of art that which withers in the age of mechanical reproduction. He says:

" [] The definition of the aura as a "unique phenomenon of a distance however close it may be" represents nothing but the formulation of the cult value of the work of art in categories of space and time perception...

[] To the extent to which the cult value of the painting is secularized the ideas of its fundamental uniqueness lose distinctness. In the imagination of the beholder the uniqueness of the phenomena which hold sway in the cult image is more and more displaced by the empirical uniqueness of the creator or of his creative achievement. To be sure, never completely so; the concept of authenticity always transcends mere genuineness. (This is particularly apparent in the collector who always retains some traces of the fetishist and who, by owning the work of art, shares in its ritual power.) Nevertheless, the function of the concept of authenticity remains determinate in the evaluation of art; with the secularization of art, authenticity displaces the cult value of the work. "

He argued that it was this unique 'aura' that drove people to ownership of specific pieces of original art.

(Walter Benjamin, Illuminations: Essays and Reflections. Hanna Arendt, Ed., Harry Zorn, Trans. New York: Harcourt, Brace & World, 1968; Reprint, New York: Schocken, 1969. ISBN 0-8052-0241-2)

What does internet and World Wide Web are meant for Contemporary Art Galleries and Collectors?

The answer depends entirely upon what direction the Art Collectors/ Art Lovers / Buyers decide, that is predominantly the driving force behind art sales in art galleries. If the Art

Collectors/Buyers maintain the status quo and continue to buy art through art shows, then contemporary art galleries will continue to maintain their own status quo.

THE DISCLOSURE OF PRINTS AND COPIES VS. ORIGINALS:

In this age of Digital reproductions, our concern is to establish a fair practice that can help to protect the artwork of an individual artist. The illegal reproductions of artworks have always occurred in history even before these technological innovations. Handmade forgery was the concern earlier, which is now replaced by digital reproductions. The advent of technology for high tech reproductions makes it easier to create more copies.

Copyright laws have many flaws and are not economical or practically viable for many artists to acquire. They require fees and much paperwork. The Visual Artist Rights Act (VARA) was established in 1990 and not amended or modified afterwards.

THE LAW

Intellectual property rights (IPRs) are the focus of enormous contemporary international diplomatic efforts to the business of innovative technology and the artistic arena of music, literature, and art. Copy Right Laws are different in each country.

The Visual Artists Rights Act of 1990 (VARA), 17 [U.S.C. § 106A](#), is a United States law protecting artist rights.

Exclusive rights under VARA: VARA exclusively grants authors of works that fall under the protection of the Act the following rights

- 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
- 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. Exceptions to VARA require a waiver from the author in writing. To date, recognized stature has managed to elude a precise definition.

In most instances, the rights granted under VARA persist for the life of the author.

Application and effect: VARA's reach is limited primarily by the scope of its protection -- works of visual art are narrowly defined -- however its effect is dramatic. Purchasers of art must obtain written waivers from the author if they wish to exercise any of the exclusive rights under VARA.

Copyright Laws were very complicated for works published or registered before 1978 and still remain ambiguous today.

THE VIRTUAL ART MARKET:

In this day of Globalization, it is hard to protect a work of art in strict legal terms, across the boundaries in the world market. In Virtual World of Art Market, a viable practice is to register the work of art in "creative commons" like websites where you can register your work for free and give it to the public domain. That will establish your works authenticity across the virtual art market. And it is a marketing strategy for your art to reach into a bigger audience.

The website, <http://creativecommons.org> is a non-profit that offers an alternative to full copyright. Offering work under a Creative Commons license does not mean giving up copyright.

The Creative Commons licenses enable copyright holders to grant some or all of their rights to the public while retaining others through a variety of licensing and contract schemes including dedication to the public domain or open content licensing terms. The intention is to avoid the problems current copyright laws create for the sharing of information. The project provides several free licenses that copyright owners can use when releasing their works on the Web.

THE PHYSICAL ART MARKET

As long as galleries and art institutions promote art in the society, the desire for seeing physical exhibitions will continue. Seeing art on a small computer monitor does not satisfy the real art lover. Neither the texture nor the color intensity is transmitted in a virtual world. All 3D artwork definitely needs physical viewing to feel its multi-dimensions and texture.

I started this article thinking about the illegal reproductions of master's work in the factories in a village of Southern China, where a piece worker reproduces 30 copies of a Master's works in a day. That one village of artists alone exports about five million paintings every year, most of them copies of famous masterpieces.

As per an article published in New York Times in 2005, artist groups in the United States expressed concerns, questioning the originality of some Chinese paintings and whether they comply with American copyright laws.

United States customs data show that imports of Chinese paintings nearly tripled from 1996 to 2004, with bulk shipments reaching \$30.5 million last year. Retail sales are several times that, as the customs data are based on the price that entrepreneurs pay for bulk purchases.

I believe that even though we see very inexpensive, mass produced art works in the super stores, the demand for original art will continue to survive unless and until a cultural paradigm shift occurs causing society to seek cheaper art. Artists also have to work to keep the interest for original art in our art market.

Galleries dealing in original art must make a concerted effort to educate the general public (and not just their own clientele). They need to teach the public to how to distinguish between originals and reproductions. Lawyers for the arts should lobby for better disclosure laws. All resulting information must be made easy to understand and readily available to everyone.

WHAT CAN WE DO?

WHAT ARTISTS CAN DO TO FIGHT AGAINST ILLEGAL REPRODUCTIONS?

PRINTS- VALUE DETERMINES THE NUMBER OF COPIES:

Having the possibility to produce high-quality images on-demand, the edition size can solely be decided based on an evaluation of the potential sale. Limited Editions of prints (or digital prints) are a generally accepted practice. Even though there are digital watermarks to prevent any misuse, it is the artists' and printmakers' honesty and integrity that controls this issue. The value of the print depends on whether it is a limited edition, multiple prints or if it is received as mass-reproduced copies.

To maintain the value for prints in the art market, artist can provide a certificate of authenticity to the buyer with all the relevant information. The hand signed certificate from the artist makes it a valuable and legal document and establishes the authenticity of the artwork.

ARTIST AND GALLERIES SHOULD PROVIDE DISCLOSURE FORMS AND CERTIFICATES OF AUTHENTICITY.

If you are a printmaker the best way to control the illegal reproduction of prints is to do the following:

Give a full disclosure of the size of the editions with a full explanation of exactly what is being bought, in the form of a certificate of Authenticity, with the artist's signature on both the print and the certificate. Include:

1. Techniques involved in the production
2. Date of Completion
3. Dimensions of the image and the paper

4. Type and weight of the Paper
5. The Name of the published/ master printer/ press/ Location
6. Total Number of Prints

For other Visual Artists, the following form can be used:

Certificate of Authenticity

This certifies that the artist declares the piece of artwork

Titled:-----

Year:-----

Medium:-----

Dimension:-----

Artist:-----

Place:-----

To be an original piece of art of his / her own creative efforts and executed by the undersigned artist, that it is unique, an edition of one (1), and not based on any existing artwork in any medium created by another artist without permission or consent.

Signature of Artist

Gallery

Date

Date