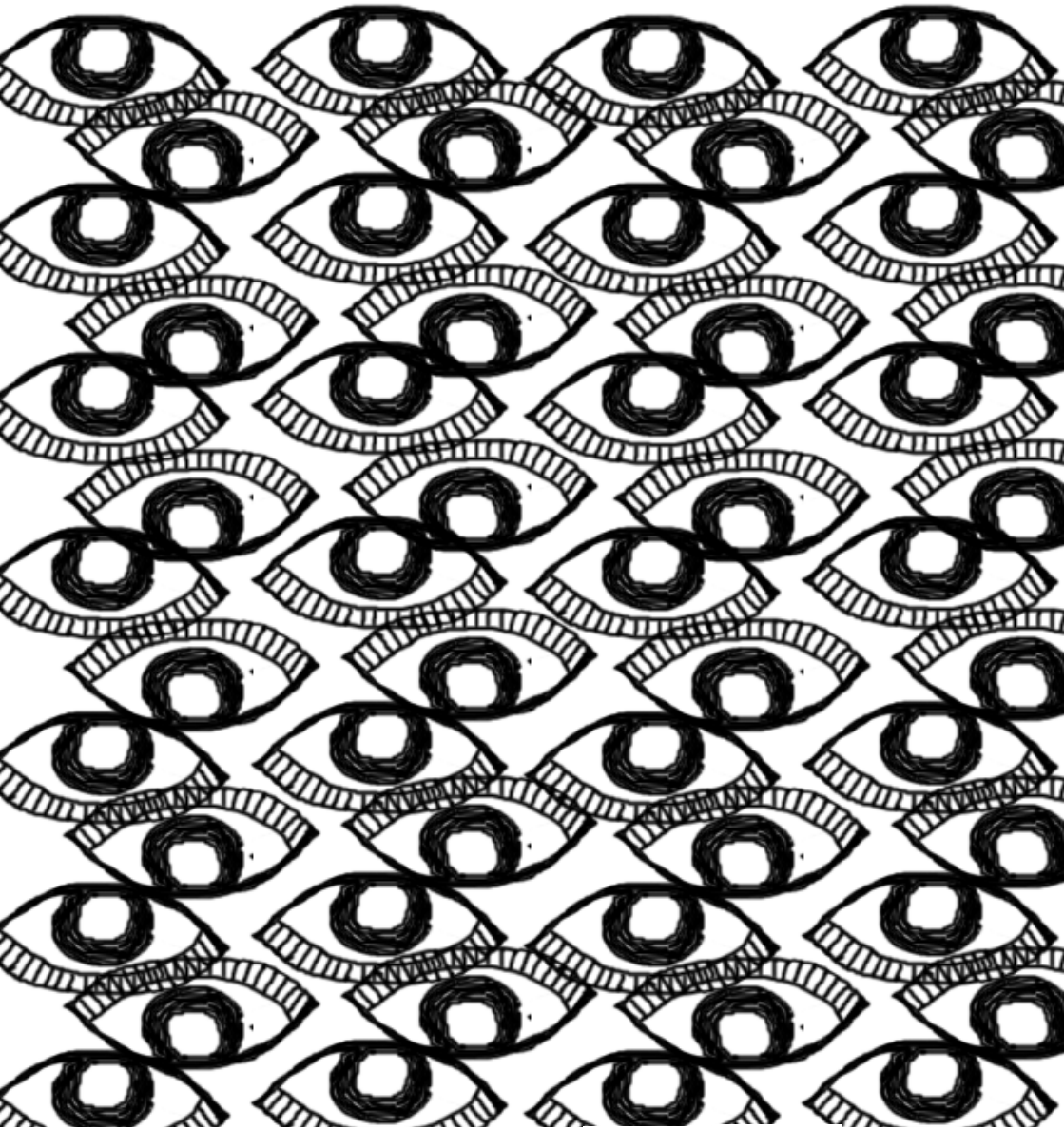

What are your thoughts on plagiarism?
Have you ever been a **victim**?
What did you do when someone
copied your work?

issue #7



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advice + inspiration from artists/illustrators/ designers **on creativity, business and life.**

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What did you do when someone
copied your work?

Join us for next issue's topic:

What sort of **support** do you receive as an artist? (Financial, emotional, community, etc.) What advice would you share with fellow artists about getting help?

email me at amy@pikaland.com to participate!

Copying. Plagiarizing. Cut and paste.

These aren't the happiest vocabulary in an artist's dictionary. Especially not when they're the victim of intellectual property (IP) theft.

The rise of technology and the digital age has opened up doors for many (me included!) and through sharing, certain lines are crossed and trust is easily breached. My take on copying? I do not find it amusing when anyone – be it corporations, or small designers/artists – take the work of others and blatantly offers it in full public view as their own.

What about those who copy a concept? Or an idea? Or a style? Those are the grey areas. Some quarters say that inspiration is everywhere; and that subconsciously we're all taking in pictures, memories and experiences – could it be possible that somehow, and maybe, just maybe, our minds made a parallel connection that transcends time and place?

I'll leave that up to you to decide, but I do want to leave you with one thought: Everything and everyone moves forward; shouldn't you? Whether it's an unpleasant incident, or a happy achievement, the key to being one step ahead of others is to go forth and create, and not let others put you down.

Happy reading!

Amy
www.pikaland.com

I don’t think I’ve been the victim of plagiarism often. One incident I remember was in elementary school when our class was making paper mache puppets in art class. Most of the other kids made animals or human figures, but I made a green bug with wings. Everyone thought it was cool. Then I found out that a girl in the other art class made a ladybug after having seen mine. I was annoyed, but not too much. It actually looked pretty good. This same girl had once taken a barbie doll out of the hands of one of my best friends, and presented it to the class as her Show and Tell toy. Only recently I found out that this girl’s mother had been a foster care parent. I realized her penchant for stealing probably came from craving attention, and feeling jealous of her mother’s attention to other children.

I can’t say that I would not be upset if someone copied my work now. But I don’t really like to dwell on it, because that would prevent me from keeping on as an artist. I wouldn’t want that fear to stop me from putting things out in the world. Plagiarism can be very damaging to an artist’s ego, because artists make a living from being unique and creative. Yet almost no idea in existence is completely “original.” Inspiration comes from somewhere. Imagine what would happen if the flowers got angry at humans for painting their forms and selling them. Copy-cats can only copy style, not content. They may be able to replicate the form of a painting/sculpture/whatever, but they can’t steal the soul of your art. The whole reason people copy is because they are not satisfied with their own ideas, their own self. If they felt more worthy as an individual, there would be no reason to steal. I think if your work comes from a deep place, you never have to worry about being shaken or out-done by a copycat. You will always have a wellspring of ideas and narratives stemming from your own personal experience. Popular styles come and go, but there is no way you could not be yourself.

Worse is when artists suffer from a case of copying themselves. They become used to a certain reaction from people about their work, and so continually pump out many versions of the same thing. I’m not saying it’s bad to create multiples. I’m saying that artists have to recognize when they are afraid of going in a new direction for the reason that they might displease their current audience. I am certainly guilty of that myself. I think an artist has to be conscious of why they’re creating something, and know that it comes from a place that can never be stolen. If you can be at peace with who you are, then you will know that no one can ever replace you. At our core, we all possess beauty and have something unique to offer the world.

Aijung Kim
www.aijungkim.com
www.sprouthead.etsy.com



Plagiarism is a very heavy duty. Especially for young/independent designers.

But in a world of information, where nowadays you know exactly what happens on the the other end of the world, it is hard to make the difference between a copy or just the same idea – in the science of (art)history there is a term for this: Polygenese. It means two completly different folks are developing the same solution for the same problem. And as we often have the same idols and inspirations it is more than understandable that two persons have the similar output.

But sometimes, one produces something special. With unique details and something with a memorable outlook. And then a big company takes this and just a few months later you can see the exact same replicas or sometimes variations of this at big establishments. For me THIS is really hard, especially as you don´t have working instruments against this. Until your (very expensive) lawyer finally gets that letter to that company – they would have already generated lots of income out of your design! The protection of design is really hard. Just a change of a minor detail in your work and for the court it is not copied design - so the only thing is, they have to stop selling your design. But no refund of the costs, no percentage of their profits or something like that will ever be reimbursed.

As for the rest, where one indie designer develops something nice and another person copies the product... for sure it will rattle some nerves – try to remind yourself though: copying is a compliment!

Dolores
Achtungkinder.blogspot.com
7sachen-magazin.blogspot.com

It's such a shame that some people won't use their brains for creative works and instead decide to resort to plagiarism. You can try to embed your images on your site to slow them down, but it won't stop them. Continue to create and share so it can be enjoyed and appreciated by the rest of us.

Planetpollyanna
www.etsy.com/planetpollyanna

Very interesting topic. There's so many facets. I saw someone recently complaining that another was copying her idea, but the idea was a certain subject matter to paint on. It seemed to me like two separate people could have thought of this, but who knows? Embroidery hoops... love them. Some (one) person must have thought...hey, I'll put my textile artwork "on display" in an embroidery hoop--so clever. Does that mean everyone else who is doing it is "ripping them off?" By no means am I condoning plagiarism, I just think in this crafty community, a clever idea could have more than ONE creator, no? That being said, I have definitely come across artwork and thought... oh that looks like so-and-so's work. Or that looks a little too much like so-and-so's work. A "little" is debatable; a "lot" is sad. I have a very talented friend who refuses to have an online presence because she's so afraid of being copied, but she could be missing out on so much. It's a risk.

Katie Stephenson
www.artwallonline.com

It's happened to me more times than I can count.

Folks fall in love with my work and then decide it's so easy that they can do it. Voila! Suddenly, it's not only copied, but they've Frankensteined my cats into 'their own rendition' AND steal my trademark name: CalligraphyCats, CalligraphyDogs, CalligraphyPets.

Google Alerts is a great help, so are my fans. I've had to contact the folks at ETSY, ZAZZLE, & CAFE PRESS to enforce the cease and desist notices. Many claim a similar story to mine and feign innocence when it comes to their time to face the music.

At this point, it's not just a matter of infringement and theft, but also trade dress. Additionally, I know that it's not a matter of 'if' someone steals my work, but 'when'. Thus, I've addressed this issue with watermarks that include my URL in the event it is stolen. It isn't 100% but at least they have to take the time to *think* about what they're doing as they reoptimize the image in their application.

I wish I could collect donations for the time that I spend tracking down the bottomfeeders instead of doing what I love best.

EC (Lisa) Stewart
www.calligraphypets.com

Making art
(taken with permission from Seth's blog: http://sethgodin.typepad.com/seths_blog/2010/01/making-art.html)

My definition of art contains three elements:

1. Art is made by a human being.
2. Art is created to have an impact, to change someone else.
3. Art is a gift. You can sell the souvenir, the canvas, the recording... but the idea itself is free, and the generosity is a critical part of making art.

By my definition, most art has nothing to do with oil paint or marble. Art is what we're doing when we do our best work.

Seth Godin
http://sethgodin.typepad.com

They say copying the sincerest form of flattery. Not sure I completely agree with the "sincerest" part, but it does mean that whomever copied your work does admire it. The only thing that helps me to put the issue at ease is... karma. What goes around comes around. ;)

Sarah
http://daedesigngroup.wordpress.com/

There is a fine line between plagarism and being inspired by other people's work. I often find inspiration from reading other blogs and studying other people's work but it is important to me to take that element and develop it into my own work therefore making it unique.

I try very hard to protect my work from plagarism through the use of watermarks, etc. and whilst I would love for my work to be inspirational to other designers I hope that they won't use my images without asking first.

Gemma Sands
www.littletinypieces.co.uk



What I try to depict is that it is extremly easy to copy or reproduce any image you find on the internet, book or magazine. You'll never know when anybody can take a picture of yours and reproduce it (without your permission and your knowledge, of course).I call it "short term-ism and volatility of the copyright".

Ana Himes
www.anahimes.es



They say the most flattering form of admiration for one's work is copying. While it could be taken that way, it is almost impossible to!

Some time ago, I designed a complimentary logo for a friend so it could be used in branding his local, small-scale record label company here in Salt Lake. Two months after the release of the logo, MY design, MY concept and idea for that exact logo was everywhere on t-shirts produced by clothing company RVCA. One of their artists found my logo somewhere on the internet and turned it into a t-shirt design. Big places were carrying the shirts; Nordstrom for one, as well as high couture little indy shops all over various shopping districts. I found the shirts here in Utah, and then even after complaining to RVCA, I found them still in California while I was on vacation.

The whole ordeal unfortunately called for lawyers and court dates, and there was simply no way I could financially or emotionally afford that battle with someone so big.

It didn't even end with my own complaints — the original artist herself TELLING them the shirt was a form of plagiarism — for RVCA to stop production. I even sent a pdf of my art with the date it was completed (far earlier than their shirts). It finally ended with a college classmate interviewing for an illustration position with RVCA to do me a favor and let them know the design was copied.

At that point I received an email from someone over production at RVCA, who promised the line was no longer being made. I assumed the only reason RVCA stopped making the shirts then was because it simply was time to send out new designs to retailers. "My" shirt already had its go on the store shelves.

The whole thing was so exhausting; I felt so small and defeated. I never found out who the RVCA artist was, and I never received a satisfying apology or compensation. I can only imagine how much money RVCA made off a plagiarized design, something I initially created. I hate to think about it.

My friends tried to console me and tell me that it should be taken as a compliment that my concept made it so far, but I couldn't take it that way.

I have also seen other artists put "their" designs into the world though they are heavily influenced by another artist. I definitely understand that inspiration comes in all forms, and imagery usually seeps into one's subconscious later to emerge in the artist's work (it happens to me!), but it is a sad thing when one artist's work looks so much like another's that it can easily be called out. It isn't hard to NOT copy.

I saw once an Etsy shop with so many different styles of art, and each style looked exactly like another Etsy artist's. I could name each one. It was disheartening. It would be so wonderful if everyone knew their own art and personal style so well that this sort of thing just didn't happen; that everyone could draw and paint and make art for themselves, not make what they enjoy seeing from other artists.

Candace Jean Andersen
www.candacejean.com



When I was 12, we were on Art classes at the school and had to paint on wood with enamel. First, we had to do a sketch, so I sketched a tomato; a cute tomato with eyes, nose, mouth, legs and arms. I was so glad with my design – my original design. So one of my classmates saw my sketch and drew the same. I didn't feel so good about it, but what could I do? Then my other classmates saw the tomatoes, now they were two, and asked to the teacher for a sketch like mine. The teacher was a very good artist but she wasn´t a good teacher because she sketched many tomatoes very similar to mine. That wasn´t a good thing to do at all. I think that a better idea would be to teach my classmates to be original and to have their own idea; to do their own designs. I felt very frustrated that day.

Fortunately some years later I became an illustrator and I haven´t had that problem. I think if someone copied my work that could be for two reasons: that person is a fan of my work and want to be like me or that person wants to sell artworks but he/she can´t have original ideas to do their own works. Maybe I would write to that person to let her/him know that I know she/he copied my work.

It´s good taking inspiration from other artists but it isn´t good copying the art of others.

Elizabeth Pujalka
www.digitalstamps.blogspot.com
www.softpencil.etsy.com

The idea of plagiarism in the world of art is a difficult one for me. As an artist I am inspired by so many other artists works. These include the ones I studied in art history to comic book artists, to artists I see on flickr or Etsy. I look at a lot of art. I am also inspired by nature, and also man made materials like rust or paint. My inspirations are in my mind when I create my work. Whether it's consciously or not they are there. So then for me the question becomes what is plagiarism? Is it seeing something and making that exact same thing or is it getting ideas about how to go about making something like what I saw/see? Does working in the same manner as someone else make you a plagiarist?

Yes I have been accused of plagiarism. It happened awhile ago but it still hurts me to think that someone thought that about my work. Its a strong accusation to lay upon a fellow artist. When it was put upon me I struggled with it. I had to evaluate the entire way I create my work. It made me angry and frustrated with the way people think about art. The way people think about ideas. To accuse someone of "stealing" an idea to me is so abstract. Don't get me wrong – I think blatantly stealing an image and copying it to the exact detail is wrong, but somewhere though, the lines of plagiarism get fuzzy and grey.

Karen Preston
www.etsy.com/shop/arabbitgirl

I've been on every side of this, from wild accusations of biting, to people selling things with my photos on them, and everywhere in between. Protect your copyright but don't let fear of your work being stolen keep you from putting it out there. When you are the creator you can always do one thing that copycats cannot: you can get bigger, better, and it will always be your style.

Remember too that many people simply do not understand copyright, the internet confuses a lot of people in this area (sadly), so it's best to go into any situation assuming that the person has made an honest mistake. Even if you're upset, remember, most people won't cooperate with jerks ... I don't!

Brigitte
zombuki.etsy.com



What are your thoughts on plagiarism?
I think plagarism among designers, crafters and illustrators is certainly becoming more prevalant with the increasing use of the internet. It's inevitable, but that doesn't make it any less annoying for the 'victim'. The problem is determining what constitutes plagarism. Is it the theft of concept, or style? Or does it have to be both? What's the difference between being influenced by somebody else's work and just plain stealing? It's a difficult judgement to make.

It's easy to become terrified of putting your work "out there" for fear that it will get stolen. But in the same way that the internet encourages would-be thieves, it can also contribute to their downfall. A strong network of creatives exists online that is only becoming stronger with the use of social networking sites like Twitter. If a fellow artist discovers a "forgery" of your work, chances are you'll know about it within half an hour, as will the rest of the art community.

Have you ever been a victim?
Recently I have discovered, or been made aware of, quite a few artists who have clearly been more than simply influenced by my work. I'll admit, I get quite angry about it (as you can see in my diary entry). I get angry when I see it happening to fellow artists too, especially the ones who aren't as well known- I think that thieves think they can get away with stealing from less established artists, which is sneaky and unfair. Designers and illustrators are a hard working bunch. It's incredibly frustrating to work hard developing and perfecting an idea, only to find that it has been thoughtlessly stolen by somebody else.

What did you do when someone copied your work?
My response has varied depending on the "perpetrator" of the theft. It is natural for a student to emulate other artists while trying to find their "voice" as an illustrator/designer. Usually, these explorations lead the student to develop a unique style and the experiments stay in the sketchbook. However, for whatever reason, some students never get beyond this phase. If they're not called out by a college tutor, they think it's OK to produce a body of work that is basically stolen. If this work then

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ends up on the (now graduate-) student's website under the guise of being his/her own ideas- well, that's where they need to be called out. College is the place for experimentation (in a purely artistic sense of the word, of course) but you can't go out into the big bad world expecting to make a living from copycat art. Most of the time, you'll be found out. I take a gentler approach with student types - in one case, a guy had basically carbon-copied a piece of my work. I just asked him to take it down. He did, and that was that.

I have also had problems with one particular illustrator (if she deserves that title, since none of her work seems to be original) who has consistantly copied my work, as well as the work of other artists, over a period of more than one year. The first time I discovered her thievery, she was called out by myself and several other people and I politely suggested that she took some time out to find her "voice" (that word again, it sounds clichéd but it's really the best word to use). The second time however- a year later- I'm afraid I was not quite so kind. I hate the thought of coming across as a bully, but I also believe that stealing so blatantly is morally wrong. The first time, I could give this girl the benefit of the doubt. The second time, however, she surely knew what she was doing. I have considered taking legal action against this girl- however, I honestly don't really know what my rights are here, if I have any at all.

I don't think copycats are ever going to go away, but I think they'll find it difficult to get anywhere with stolen work with such a strong online community, ready to protect their fellow artists from thieves like a snarling pack of wolves... um, a really lovely and kind pack of wolves, that is.

Gemma Correll
www.gemmacorrell.com

I've never been a victim of plagiarism (at least not to my knowledge), but it is something I worry about as an artist especially after reading about other people's accounts how they found their artwork on a mass-produced shirt.

As a small home biz, it would get very costly to register each and every artwork that you intend to put out. Luckily, a friend who is knowledgeable in these matters offered me a very valuable (and budget friendly) tip which I'd like to share with you and your readers.

Each artist, whether creating written work, visual art or even music, can place a copy of their work (a print, photographs or even a cassette tape or CD) with a typewritten description maybe of what it is and when it was created and what it was created for (you get the idea) inside an envelope and mail it to themselves.

They must never open the envelope unless such a time arrives that their work has been plagiarized by someone else and they must prove ownership of the work. The aggrieving party must be able to prove that their work came into existence before the date stamped on that envelope.

If you churn out a lot of work at a time, it might help to code your envelopes (much like when you're packing to move houses) so you know what they contain without having to open them.

It's a cheaper and easier way to protect your work.

Kathy W.
thegreenzebra.etsy.com

What are your thoughts on plagiarism?
When I was a little boy, I used to draw, line-for-line, pictures from my Tiny Toons coloring book. I would try to make my drawing of Little Beeper look just like the coloring book's version. The same thing happened a few years later when I discovered comic books. I would try to draw a Wolverine and a Leonardo that looked just like those in the books. If it looked similar, I'd be happy. If it was skewed, I'd try again.

My purpose was to figure what made those pictures of work. Figure out which lines were most important and why they were in certain places, but not others. Where color could take over and what made a face menacing – or cute. The difference between plagiarism and what I was doing as a kid is intent. If I wanted people to think I was such a great artist, I could copy a saucy picture of a Ninja Turtle and say I came up with the whole thing and just made it up. If I wanted to learn how to draw better, I could just draw until I got it right.

Have you ever been a victim?
Yes! It was awful! It happened all throughout junior high and high school (funny that no one thought to copy in elementary school). It's so terrible! I would make a drawing that I thought was something special and I'd want to share it with some friends. Someone would make a shaky, lop-sided copy, and then show it to their friends and tell them how they'd come up with such a rad drawing and everyone would think they were a rock star. Boo! Seeing the copy was seeing a lie, drawn on a piece of paper, and paraded around everyone's eyes. Its one thing to see a copy of your work that everyone loves, and quite another thing to know that everyone loves a terrible copy (especially when the real thing is just next door!).

There's another form of plagiarism, though, that came around sometime after high school. It's when you copy your own drawings. I've done it a few times and its a sickening feeling. I didn't mean to start copying my own drawings, but I "ran dry". I didn't have any new ideas to figure out – no new characters to doodle, no new stories to draw, nothing. So I just kept drawing the same things I had been drawing for days. The same people were drawn in the same poses at the same size, the same animals were eating the same things with the same looks on their faces. My drawings were all the same and I was copying myself. When I noticed what I was doing, I felt a strange sense of guilt.

What did you do when someone copied your work?
In junior high, I found a bathroom and cried. In high school I kept quiet, but was frustrated. Now, I still get frustrated, but I think of it as a bizarre compliment. Like, "Hey, your drawings are so rad, we want to look just like them!" If I see that I'm copying myself, then I slow my life way down and read.

What is the antidote for plagiarism?
You're probably feeling stressed about something if you are thinking of plagiarizing. You only have a day left to finish your English paper, so it would be easy enough to copy someone else's. You see someone else that makes rad drawings and you feel like you should be as good as they are, so you can copy someone else's rad pictures. It comes down to taking credit for your own work and congratulating people on theirs. I don't want to see copies of other people's pictures – I want to see the real thing. You might think your drawings suck, but I'm willing to bet you can draw something better than even that guy! An original, thoughtful drawing is solid gold. Copies are just something a machine makes for 5 cents.

jess smart smiley
www.paper-muncher.blogspot.com



We've just read your post about plagiarism and wanted to drop you a line (well, okay several :)). It's a very interesting topic and has really spurred us on to read more about cases of plagiarism and blatant copyright theft (like the Lauren Nassef case: http://www.laurennassef.com/sad-story/). It's good timing that you've written this blog post actually as we recently came across someone that we knew stealing other artist's work in order to promote her own.

We run a small creative community called Kooji Creative - it's our way of bringing together creative friends from all over the world and a good excuse to reach out and meet some new ones too. We decided to contact an old art college friend after finding her on facebook. This girl has a group on facebook with a "gallery" showcasing lots of artwork. At first glance we were really impressed and left comments on the group page to say just that - along with other people we thought these pieces of art were her own, as it states on the page that all artwork is original, signed and dated and available to buy.

We added a profile to our site for her which includes links to her "portfolio" and examples of her work. We did this all in good faith because we believed that we were promoting the artwork of a creative and hard-working friend. It was at this point that we noticed something odd. We were browsing through her gallery on facebook and spotted a website address at the bottom of an oil painting - strange... she'd said that she only had a portfolio of artwork on facebook and myspace. The address was of an artist from the USA, a hugely talented guy who had a whole portfolio full of these beautiful oil paintings. We started to notice that other images of "her artwork" had been sourced from other artist's portfolio sites, deviantART and google image searches after tracking them down and comparing the images. They were identical! We could even make out signatures.

We were horrified. We removed her profile on our site, contacted all the artists by email and told them about what she'd done. The oil painting disappeared from the facebook group and as far as we know one artist is still in the process of reporting this theft of his intellectual property to facebook.

It's frightening to realise that there are people out there doing this, that those people are twisted enough to think that they can get away with this and that they are willing to lie to their friends about it too. Also it makes you question the sincerity of the people you meet and makes you ask, "is this artwork really theirs?" It makes you afraid of sharing your own artwork because you risk this happening to you too. Most of all though it's made us very sad because we knew this girl, saw her drawing at art college and thought she was creative, and have realised that she wasn't the nice girl we thought we knew.



We've been planning on blogging about copyright theft and what you can do to prevent it online - it's a very close topic to plagiarism, but ultimately much more serious (or is it? They're both theft) as this person was using these artist's work and telling people it was her own. We've had people copying our ideas, our designs (and it's difficult to prove because we're all exposed to the same stimulus, we're all inspired by the world around us and as artist's most of us need reference images/ photos from which to draw - I drew an elephant a few months ago - you don't get them around here in Yorkshire so I found a photo and drew from that, am I stealing the image or simply drawing my interpretation/ my own version of it?). It's one thing to inspire another artist it's another to have your artwork stolen - it's outright theft and it's unacceptable.

Anyway, thank you so much for writing this blog post - it's helped us to think about a very difficult topic.

Katherine & Johnny
Kooji Creative
www.koojicreative.com

I think there is a lot of plagiarism going on around the internet and elsewhere. But as far as art is concerned, if someone were to copy my “style”, I would not be upset by that. I would be upset if they took my image, copied it exactly and put their name to it without giving me credit! Plagiarism is about stealing and fraud, lying about where an idea came from and not giving credit to the rightful owner. I think it’s great to be inspired by others work but the challenge is to keep it unique to yourself. I think looking at others work can push an artist in new directions. But copying someone else’s work is not creating art from the soul. The soul work comes from within and is unique to each person and tapping into that is where it’s at!

Lindy Gruger Hanson
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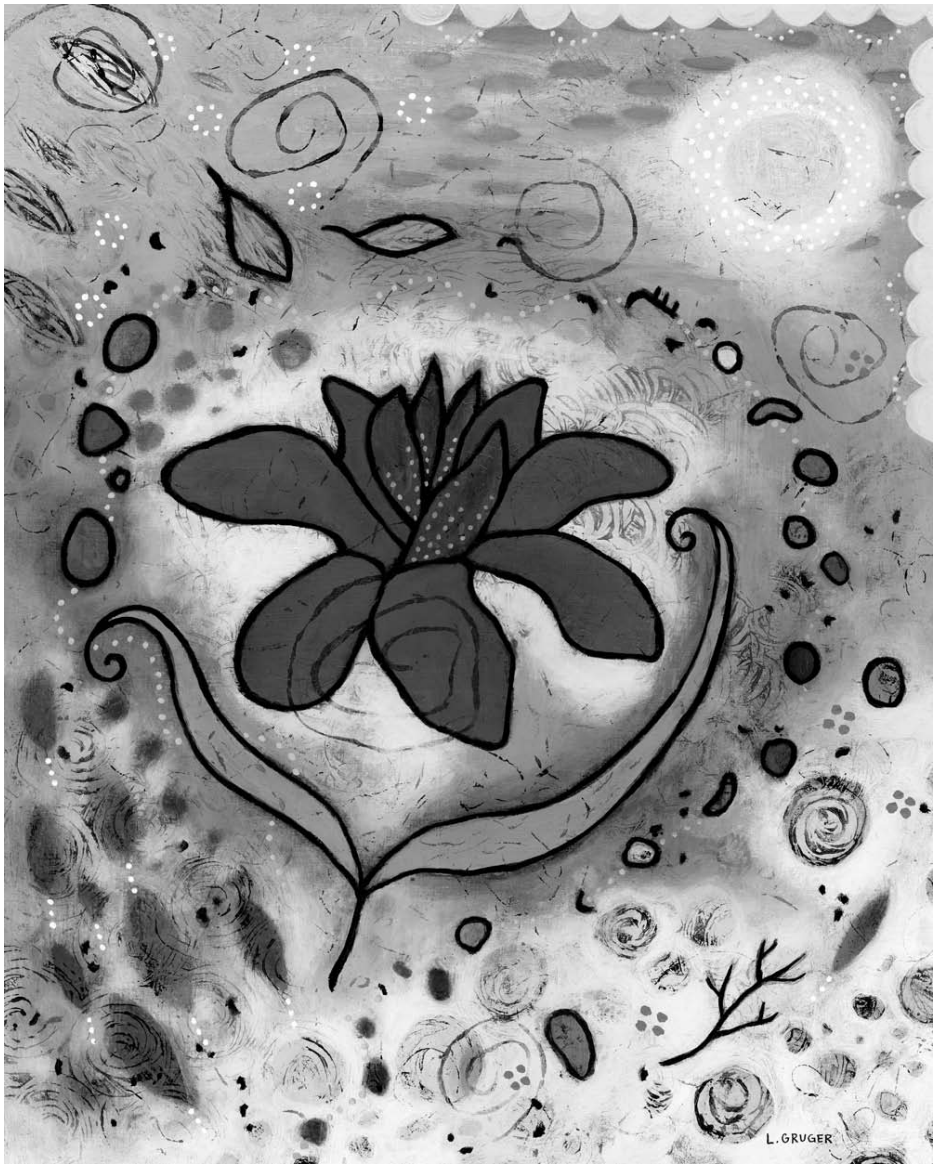
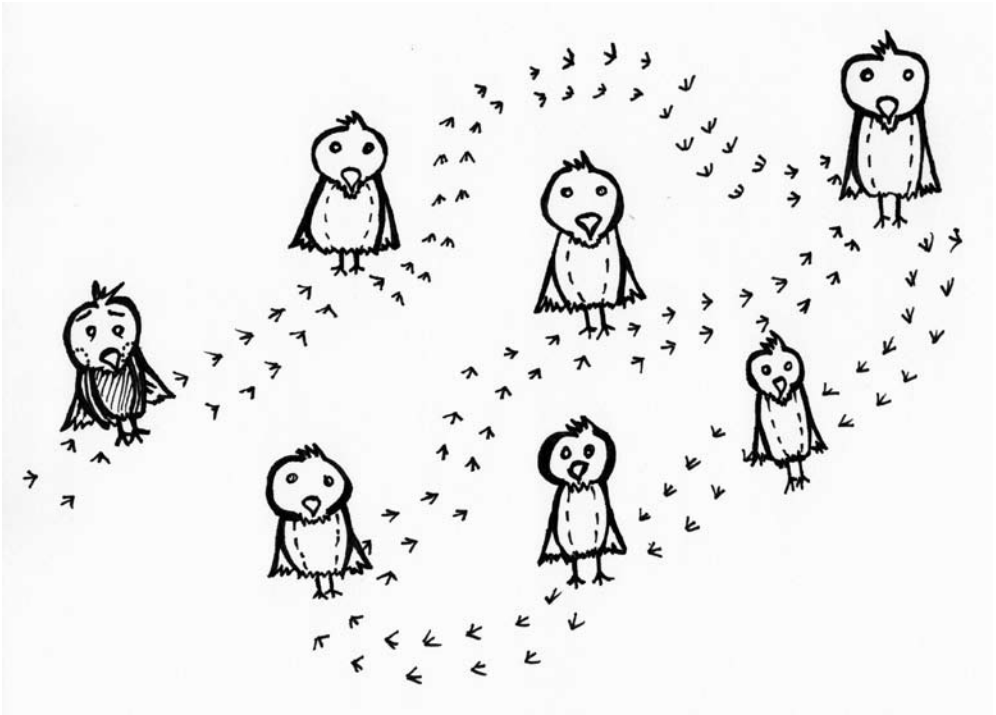
http://lgrugerhanson.etsy.com





I think most everyone would agree that plagiarism is wrong. Taking someone else's work and passing it off as your own is a horrible thing. To me, plagiarism is blatant copy and paste. We've all seen it happen to many artists, especially online because the digital format makes it a bit easier for someone to steal. I don't think I've been around long enough for anyone to capitalize off my work, although I can suppose it would be both flattering and frustrating at the same time. In these types of negative situations I always think it is best to do what you can to catch the culprit, but ultimately you have to move on. The copy cats will always be behind the game and they will never ever receive the esteem of real fans and followers as real artists do.

A more interesting topic that is closely related to plagiarism is that of appropriation or perhaps simply inspired by xyz. I've also noticed cases where an artist believes their idea had been copied. It's obviously not a simple copy and paste effort, but very similar... too similar in some artists' eyes. Sometimes it can be very difficult to decide whether it can be considered plagiarism or not. I'm sure someone else can comment on the copyright and legal aspects of the issues, but I'm more wondering about the community and ethical part of the issue for all artists.

Many people nonchalantly say there is no such thing as original anymore, because there's bound to be someone else in the past that would have done it before. It sort of makes sense, but at the same time even when people draw the same thing it turns out different. After all, just because there are a millions of design variations of birds out there, it doesn't mean we can no longer illustrate birds anymore because it's been done. In fact, if you do a quick search would you see a lot of similar motifs popping up... something about that collective consciousness and artists in the same time going with similar trends. Now we are getting into tricky territory that I struggle with personally. I draw something that I think is cool, but then I wonder... wait, did I see this somewhere? Has it been done before? Does that mean I should not share it, for fear of offending some one else out there? Hmm...

Linda Tieu
http://www.tortagialla.com

Plagiarism is a tricky thing. As far as I know (touch wood!) I have not been the victim of plagiarism so far, but it is a constant worry for me. Perhaps I spend too much time on Twitter, but I hear a lot about plagiarism these days. Why, only yesterday I had to delete a post by an artist who had copied another artist's work.

Taking a look back at our history, the masters of painting would have spent years creating perfect copies of their teacher's work, and would work together in painting 'schools' to distinguish their collaborative style. So where along the line of art history did we decide that similarity and art schools were a bad idea? Artists both past and present are brought up to learn by example. As I remember my art teachers saying in high school: "find an artist and re-create the image in your own style". This of course is OK in a sketchbook which is fully presented together with annotations and labels, but online is where the problems begin. Through the posting of art on our websites and the reposting of images by others on blogs and websites, artwork is constantly taken out of context and given new meanings. Most of the time these images are also un-labelled or provide us with the wrong information, which can also make tracing the oringinal artist impossible; and, with so many images now in digital format, it is so easy to repost an image online that one does not even have to be able to draw or paint in that style to claim it as their own.

The power of the Internet also highlights these wrong-doers, as we have the ability to search a higher number of artists. Online communities have also been known to pull together and look for each other's work. Then again, on the other hand, surely there can only be a finite number of combinations of drawing styles/ colour schemes/subject matters possible. Alright, this is bound to be a large number of combinations but with around 7 billion people in the world, the chances of two artists working separately and independently of each other in a very similar style must be relatively high. The only difference now is, of course, that the Internet allows these people to be brought together.

However a side note. I was wrongly accused of plagiarism once and it is a horrible feeling, especially when you are innocent. Make sure you can back up your claims before making a scene as such actions can damage an artist's career; or in the case of a wrong accusation, your own.

Tigz Rice
www.tigzrice.com

Handle the matter on a case-by-case basis, there's no one way to handle plagiarism, or even just the feeling of being "ripped off".

* If it's been a large company and my artwork has been basically traced, I contact a lawyer directly. It's costly and time consuming and just downright upsetting to initiate legal mediation and/or a lawsuit, but it's the right thing to do to maintain your copyright and the only thing a large company will pay attention to sometimes.

* If it's a peer you feel is copying your IP, contacting them directly is fine and may work, but nobody likes to be accused of copying, so results may backfire! Unfortunately this all happens to me so much that I have full time legal team who help me protect my work, draw up my contracts and contact my infringers directly so it doesn't become personal. I feel like I have a good understanding of the law as a result, which thankfully is typically on the artist's side. I also feel like because the matter is being handled professionally, the infringement will usually be resolved soon and I can return to my work without that bitter feeling of resent, or fear about my work being seen online and appropriated without my permission. Well, that fear is always there maybe...

Just know your rights, because often times, a peer infringer may just not think or know about copyright, or might think they could just get away with it without anyone noticing. By defending your work in a professional way, you can save your work from abuse and give yourself some peace of mind.

Susie Ghahremani
www.boygirlparty.com

There is just a small step between sanctity and sin. How does one make sense of it?

The crib of ideas is a really subjective topic. It’s something that is on everyone’s mind – and can be evidenced from the early days of primary school, when your classmates are the main sources to be plagiarized from. Later on, we see masterpieces from widely known, well-established artists, we learn from them, try to know their oeuvre and absorb what’s the best. But there is a huge difference between the two examples I gave above.

In the first case (primary school), we just copy the particular thing without knowing - is it really what I need, is it better than what I think, and finally, is it right? You don’t think about that. You just take that piece and present it as yours :)

In the second example, it’s completely opposite. The first step is to choose who and what you like, what do you want to learn, is it acceptable for you, etc. Lots of questions come to your mind and while answering them you shape your knowledge, consciousness, subconsciousness. When one artist rephrase the creation of the other, there is a particular dialogue between different cultures, different creators, etc. The main point is that no one loses their uniqueness, self-sufficiency and independence. But when an artist plagiarizes another, there is no connection with creativity, there is no dialogue at all.

Both intellectual and cultural stealings existed since a long time ago, but nowadays it’s particularly severe. Well, we could blame it on the spirit of postmodernism. Also, while it might seem that there is nothing else to be discovered in art, that’s not true at all and it definitely cannot be an excuse of plagiarism. There is no excuse for it at all.

Vaiva Kovieraite
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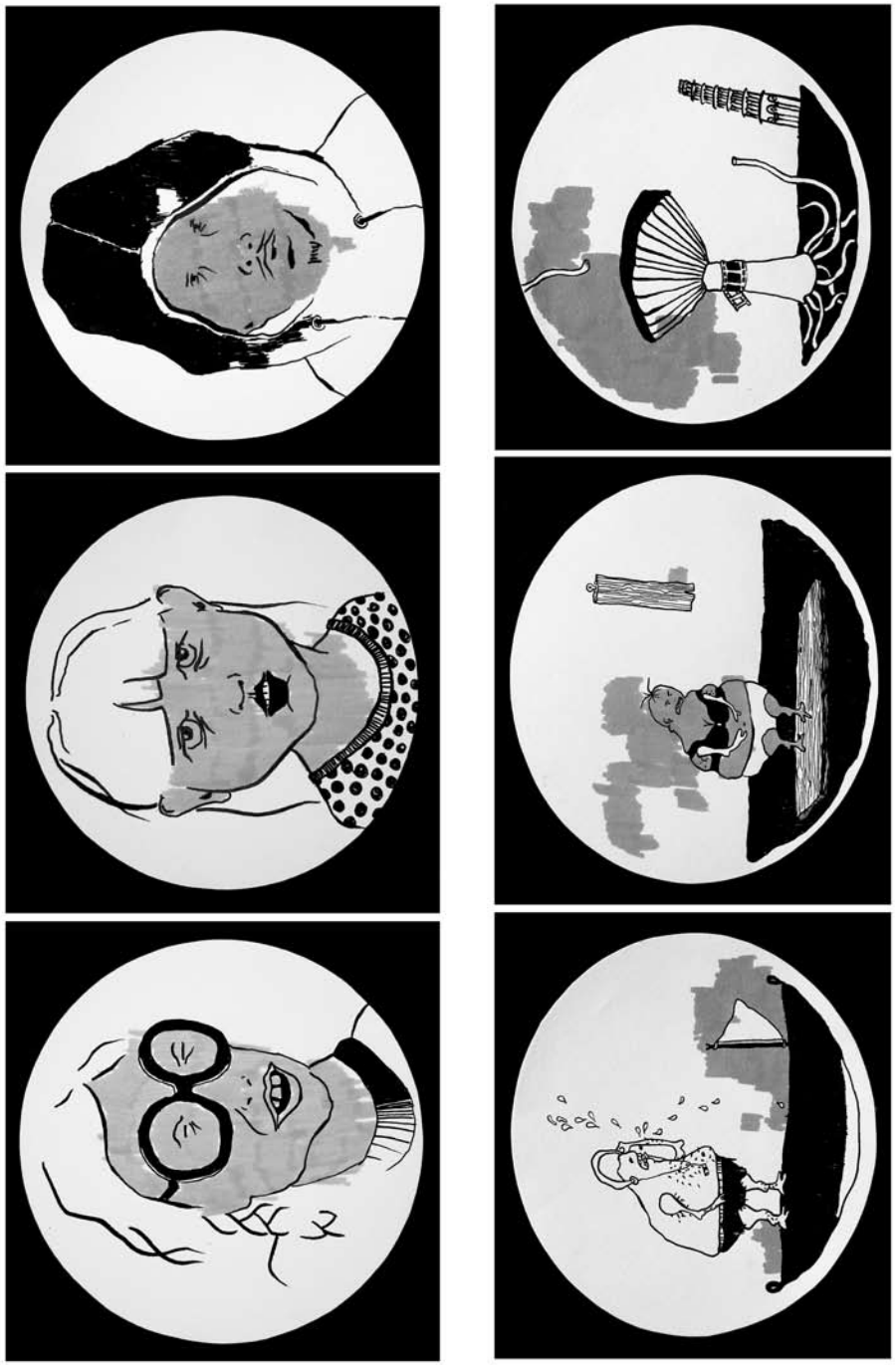

Hello. My name is Rina Miriam Drescher.

In 2004 I painted my boyfriend at the time, from life. He was sitting right in front of me and I painted his portrait. He sat for about 3 hours. I was living in Finland and he was living with me and I was getting ready to have a solo exhibition for children in a gallery in Pori, Finland so I was making a bunch of work for that and painted his portrait for that show. At the same time, I was trying to make myself an online portfolio and I had a livejournal account that I was publishing things on until I could figure out how to make my webpage. I took a photo of the painting of my boyfriend and had it on my livejournal and then I had it on my first webpage too when I made that. That was in 2004 to 2005. So, then I found out in 2006 that someone had copied my painting of my boyfriend, and not only that, she had it for sale in a gallery in Iowa for $600! I was like oh hell no. The thing is, my name wasn't anywhere near it. She hadn't given me any credit at all. She was clearly trying to pass this off as her own original work! So I wrote to my ex-boyfriend (because we had broken up since then) about it and told him. And I wrote to my uncle who's a lawyer and informed him that someone copied my painting and it was so obvious it looked almost just like it but it was more cartoon-y and that I didn't know what to do!

It turns out the girl who copied my painting went to college at the U of R the same time I did and she had had her little studio space right around the corner from where mine was, so I remembered who she was! So, then, my ex-boyfriend wrote back and told me that he didn't know who she was – but someone he knew knew her. Which was weird. My uncle wrote back to say that she hadn't copied the painting close enough to get it to look like mine, and that we could not prove that she had in fact copied it from mine. So he said there was really not much we could do legally without making a big fuss and I should ignore her. He made some suggestions which basically meant I should probably not send her hate enraged emails. So, I kept quiet, and kept painting.

But I was pissed.

Then I moved to Boston in 2007 because I got a grant to study at the School of the Museum of Fine Arts, Boston. So then when I was in Boston I painted more people from life (because that's my favorite way to paint people. But I also paint all sorts of other things). So, then one day in 2008, someone had brought up copying in school so I was curious to see if she had ever sold my copied painting. So I googled her and I found the Iowa gallery. Turns out she had copied 3 more of my paintings and she had them all for sale. She had even copied one of them twice! Now, it's one thing to have your paintings copied, because that's illegal. It is another thing to have someone blatantly trying profit off of you, while they are employed somewhere else, when you are doing everything you can to earn enough to paint, which is not employment. This girl who copied me isn't an artist. She works in cell research.

Yep. Cell research. Now, I myself have a lot of respect for cell researchers. I have a lot of respect for cell researchers because I myself have had my cells researched. When I was 19 I got really sick. Really sick. They told me I had leukemia. So, I was in the hospital for a really long time thinking I was dying of leukemia, until they told me I didn't have leukemia. Not only did I NOT have leukemia, but they didn't know what was wrong with me. So, I got worse and worse. I very nearly didn't make it through that. Then when I did, I had to re-learn how to do all sorts of the things we all always take for granted.

But I got better. And part of what helped my getting better was painting. I had painted before I was sick, so when I got better I painted. I had to go through therapy because I had upsetting memories of being so ill, so I painted as therapy. I was diagnosed with PTSD when I was 22.

I painted a bunch of art therapy things. Two things I painted as art therapy were two big paintings of my disease I had survived, under the microscope. I painted those but I painted them abstractly so they'd look like abstract paintings. I did that because I really like abstract paintings, but I really didn't like my disease, so I was wondering if I could make myself kind of come to terms with it from a perspective I could be comfortable with.

She had copied those paintings and she was trying to sell them for $200 each.

Yep.

I had put those up on my webpage. My webpage that clearly states I own the copyrights to my paintings all over it! Those are my paintings I painted as art therapy that I myself don't even have for sale anywhere. I have no intent to try to make a profit off of my own art therapy works. I had put them on my webpage because they were abstract paintings and I didn't think anyone would know what they were of, other than my friends and family who know what I've been through. She copied their titles too.

It doesn't stop there. She had plagiarized part of one of my artist statements and had it posted online as her artist statement! She had moved the words around but one whole sentence was essentially directly from one of my statements.

I know.

I wrote this as calmly as I could. I had to stop a lot to be able to do it that way. I have been every kind of furious about this. Trust me.

Thanks for listening.

Rina Miriam Drescher
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Your Copyright Questions Answered

Amy Everhart

*The original source of this article was published on
Book by its Cover on 19th August 2009 and can be found at:
http://www.book-by-its-cover.com/other/your-copyright-questions-answered*

What are the best ways to protect ourselves from being plagiarized when using the internet?

1. Always include a copyright notice on or near your work in a visible and obvious manner. The notice should read: "© [YEAR OF CREATION OF WORK] [NAME OF COPYRIGHT OWNER]."

2. If you routinely post your works on your website, you should consider adding a Copyright Notice at the bottom of each page stating that all images and artwork included on the website are your proprietary copyrighted works and may not be reproduced without your permission. If you wish to make your works available for license, feature your contact information prominently to make the process as simple as possible.

3. If possible, add a watermark to your works so they're difficult to reproduce from a mere right click of the mouse. You might also consider special tracking software that allows you to keep track of your images on the Internet. I've also read about applications that provide a pop-up "Do not copy!" warning when the user right-clicks on your image.

4. Although you have copyright protection the minute you create a work and embody it in a tangible medium, you should consider registering your works with the U.S. Copyright Office. Registration is required before you can sue for copyright infringement, and it gives you the opportunity to recover attorneys' fees and special damages when actual damages can be tough to prove. You can register electronically at www.copyright.gov for $35 per work.

What legal protections are given to an artist whose non-copyrighted images (those made by the artist but not applied for copyright) were stolen?

From the minute you create a work and embody it in a tangible medium, it has copyright protection, regardless of whether you register it with the U.S. Copyright Office. Therefore, if someone infringes your unregistered work, you can sue for copyright infringement. You must register the work before you can file the lawsuit, though. If you win the lawsuit, you are entitled to 1) an order that the infringer stop infringing your work and destroy the infringing articles; 2) any actual damages you suffered; and 3) the infringer's profits from exploiting the infringing article. These types of damages can be tough to prove, which is another reason to register your work with the Copyright Office before infringement: Registering before the work is infringed allows you to elect, in lieu of actual damages and the infringer's profits, to recover "statutory" (or "penalty") damages of up to $150,000 per infringed work (the amount depending on the nature of the infringement) and the opportunity to recover attorneys' fees.

Can an artist legally demand her images be removed from a website, even if it's not being used for monetary gain by the offending blogger/webmaster?

Yes, if the third party's use constitutes copyright infringement without a valid defense. A use does not have to be for monetary gain to infringe the artist's copyright. Whether the use is for monetary gain, however, is a factor in determining whether the use is "fair," a valid defense to copyright infringement. See below for a discussion of what constitutes "fair use."

Most web hosts include a Copyright Policy or Terms of Use on their websites with instructions on how to report a copyright claim and request removal of the infringing image. If you believe you have a valid claim (consider consulting an attorney first) and wish to report it to a web host, follow the instructions for that specific website. Be careful, though, as a bad-faith request for removal can lead to a claim against you!

What are the steps you should take to confront someone who has been selling copies of your drawings online in both the circumstance of copyrighted and non-copyrighted drawings?

Again, keep in mind that you have copyright protection in either case but enhanced potential damages if you registered the works with the Copyright Office before the infringement. In either event, at this point it's a good time to consult a lawyer. The lawyer will probably recommend sending a "cease-and-desist" letter demanding that the infringer stop the infringing conduct and perhaps seeking an accounting of all profits the infringer made from the infringement. You need to be careful with any steps you take at this point, because you may end up filing a lawsuit, and your actions and statements could be "used against you" (as they say on TV) as admissions in the lawsuit.

When using photos for reference to create pieces of art or illustration, is there a percentage that has to be different from the original photo? What are the rules about this?

You may have heard the "30%" rule, but unfortunately there are no hard and fast rules on this issue. In fact, a major case dealing with artist Shepard Fairey's artistic rendition of a photo of President Obama is pending as I write this. If you'd like to read more about this case and other recent court opinions, please see my

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Amy Everhart (www.aeverhart.com)

recent blog article on the subject right here.

The issue whenever you use a photo to create your artwork is whether your use of the photo is "fair use." A photo, like your artwork, is protected by copyright. Whether the use of another's copyrighted work is fair is a tough question because it depends on a balancing of several factors, including 1) the purpose and character of the use, 2) whether the work is fact-based or fiction, 3) the qualitative and quantitative amount of the work used and how much of your work uses the original, and 4) whether your work usurps the market for the original. If your work transforms the original, uses only so much of the original as is necessary to make your point, is for comment, criticism, satire or parody, doesn't use the original in its entirety, and doesn't usurp the market for the original, it's more likely to be fair.

There is one hard and fast rule you should remember: When in doubt, get a license.

How does infringement come into play in the realm of collage: when text/images from magazines, books, etc. are used in conjunction with the collage artist's own embellishment with paint, etc.?
The fair-use doctrine applies here as well. The more you take of the text and images from magazines and books, etc. (quantitatively and qualitatively), the less likely your use is fair. Again, keep in mind that, if your work "transforms" the original work, your use is more likely to be fair. So scraps of a magazine photo pieced together to form an entirely new image is more likely to be a fair use than a cut-out of an entire copyrighted poem used in your new work.

Two cases involving artist Jeff Koons demonstrate where courts draw the line. In one case, Koons' collage using a pair of legs and feet from a fashion-magazine photo was found to be fair use because it "transformed" the original. On the other hand, Koons' sculpture copying a note-card photo of a couple and their puppies was found not to be fair, as it copied the essence of the photo.

What is the line between homage and infringement? Can an artist pay homage to other pieces of art, classic characters, etc., by spoofing or including elements of well known images in his/her work? Could I include a drawing of Charlie Brown in a painting that has my own images in it?
Classic cartoon characters like Charlie Brown are protected by copyright, and using them in your artwork creates the same issues as using anyone else's copyrighted work. Our friend Mr. Koons teaches us yet another lesson on artists' legal boundaries. Koons

produced four sculptures including the "Odie" character from the Garfield cartoon. The sculptures were based on a collage Koons created by cutting out a color picture of Odie and placing it next to a cut-out image of a stuffed doll. The court rejected Koons' claim that the sculpture was a parody and thus fair use, because the copied work was not the object of the parody.

Parody can be fair use, depending on consideration of the same "fair use" factors discussed above. Parody is when an artist, for comic effect or social commentary, closely imitates the style of another artist, creating a new art work ridiculing the style and expression of the original. Parodists are given more leeway in how much they can copy, but the parody is fair use only if the user takes no more of the copyrighted work than is necessary for purposes of the parody. An example of permissible parody is a spoof ad for a Naked Gun film featuring star Leslie Nielsen's face on a look-alike of photographer Annie Leibovitz's famous photo of a pregnant Demi Moore on the cover of Vanity Fair.

At what point does an image become public domain? And when it is public domain, can you use the image unchanged in your work for sale?
The duration of copyright varies depending when a work was created and, for older works, whether certain statutory formalities were met. In general, you cannot count on a work being in the public domain unless it is more than 120 years old. If you want more specific guidance, you can check out a chart such as the one located here.

Also, be wary of clip-art and similar websites that state a work is in the public domain, because often it is not. And simply because an image is online without a copyright notice does not mean it is in the public domain. Certain works may be available for use pursuant to a "creative commons" license, but you should be sure to use such works only pursuant to the terms of the particular license. For more information on creative-commons licenses, please see my blog entry on the topic right here. Again, when in doubt, get a license. If you are certain a work is in the public domain, you can use it unchanged in your work for sale.

I hope this information is useful! Of course, the usual disclaimer: This information is not intended as legal advice. Each situation is unique, and you should consult an attorney for your specific legal needs. If you're interested in reading more about trademark and copyright law, please see my blog:
www.aeverhart.com/lightbulbmoments/.

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Join us for next issue's topic:

What sort of **support** do you receive as an artist? (Financial, emotional, community, etc.) What advice would you share with fellow artists about getting help?

email me at amy@pikaland.com to participate!



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