

Ask the Artsperts

by Kristine Meek and Juliana Meek
Harmon-Meek Gallery, Naples, FL

Who Owns the Copyright?

Dear Artsperts:

I attended a luncheon last season with a keynote speaker discussing issues with heirs and inheritance. A story was told where the four children each wanted to have a particular painting from their parents' collection. It was worth millions, and they each loved the work. Their solution was to sell the painting from the estate, but before doing so, they had the work photographed in high resolution and reproduced into four printed giclée copies for each of the siblings to have in their home. This seemed like a fantastic solution, can I do this with works in my collection that my children are fighting over?

*Signed,
Coping with Copyrights*

Dear Coping,

It seems like a winning solution for the family. They get to sell the work of art and still enjoy a reproduction of the painting in each of their homes. However, this is not allowed under copyright law, unless: 1. the copyright is in public domain, meaning it is 70 years past the death of the artist; 2. the family actually holds the copyright to the painting, which is highly unlikely; or 3. the family received written permission from either the artist or in the case of a deceased artist, the artist's foundation/estate.

It is easy to forget or not understand that the ownership of a painting does not include ownership of the copyright. The copyright remains with the artist. As was publicly played out in the courts with the music industry about 15 years ago, owning a CD of music doesn't give you permission to then copy and upload the music to a website for others to enjoy. The same principles apply to paintings. You cannot make copies of paintings in your collection, unless the artist died before 1949 or you have permission from the artist or artist estate. This includes printed and digital copies.

Related to this topic, and what we have often seen with regional magazines is the failure to provide attribution to artists whose works are reproduced in photographs of home interiors in various articles. The editors always give photo credits to the photographer, as they should, but fail to realize that the artworks within the photograph are also protected under copyright law. At the very least, and out of courtesy, magazine editors should provide attribution to the artists. However, in reality the magazine should seek written permission from artists and artists estates before works are reproduced in photographs, even photographs of a home interior.

This is about fairness to artists who create the works of art. It is only right that they should maintain ownership of the copyrights, even when they sell the physical works of art. If they weren't allowed to keep the copyright, nothing could stop someone from purchasing a painting and then make hundreds of giclée reproductions to give away or sell. It isn't fair or right for the artist.

So, if your children are fighting over paintings in your collection and they want to make a giclée reproduction as a solution, remember written permission from the artist or artist estate is

required before doing so unless, the work is by an artist who passed away before 1949. Our advice goes further than your question, to remind others if their homes are being photographed by a magazine, be sure to provide the editor with a list of the artists with works in the home to enable proper attribution.

*Sincerely,
The Artsperts*



A photograph of a home interior. When reproduced in magazines, like this one, the caption should read something similar to: "This Naples home has an extensive fine art collection. Pictured are paintings by Hunt Slonem (left) and Byron Browne (right) and sculpture by Anita Huffington. Photo by Juliana Meek"