

Decorative Painting, Legally Speaking **Part 3 of 3**

The Anatomy of a Pattern

I don't know about any of you, but if I were to start now working on all the patterns, books and magazines that I have, my great-great grandchildren would finish them when they are 80. I find myself staring in amazement at the talent and creativity contained in those pages. Of course, I cannot throw away or give away one because I have that project in mind for a specific person and that is on my shortlist of projects to get done very soon. Besides, I have the surface all picked out!

The burning question in the decorative painting industry remains: "What can I do with this pattern I just purchased?" While many articles and lectures can be given on the subject of copyrights, the practical component still remains. How does one take all the information and apply it to those pieces of paper and pictures called a pattern? Let's break it down and apply what we have learned to each part of the pattern.

The Cover

Whether it's a book cover or a pattern packet cover, the information contained on the cover is basically the same. The important information that you need is: a) who is the author, b) the name of the pattern and c) the all-important copyright legend which is usually on the back of the pattern packet cover or on the first page/cover page.

The copyright legend is the key to what you can or cannot do with a pattern. The copyright legend should tell you the year the work originated (and any subsequent revision dates) and who owns the copyright. Remember, the person or entity that owns the copyright may not be the person who created the work. The copyright legend also should include what rights the owner does or does not grant to the consumer.

It is important to read the legend for items such as reproduction rights, (i.e. mechanical,

by hand, teaching), uses for the pattern (i.e. personal use, reproduction for craft shows, PIN money, Internet auction websites), display rights (i.e. display picture of your work on Internet) and teaching rights (i.e. right to reproduce pattern and/or instructions for each student).

If the artist or copyright owner does not specify what one can or cannot do with the pattern, then the standard provisions of the United States Copyright Act apply. This means that the pattern cannot be reproduced in any way, you cannot make any copies of the work (including making the project), and you cannot display and/or sell your copy of the work. This view may sound harsh, but it is important to show how much work needs to be done in our industry to understand the rights one does or does not have to convey with each pattern, no matter how complicated or simple the pattern may be.

An important side note regarding color pictures in patterns: Many covers also include a color picture or the color picture may be a separate sheet or special pages in the book. Copyright protection applies to these as well. The copyright protection for color photos is generally easier to understand: Do not copy the color picture unless given permission by the owner of the copyright, which may be the photographer and not the artist! Also, do not copy what you see in the picture unless you have permission to do so, the object is probably covered by copyright as well.

The Instructions

Instructions set forth a road map for a pattern. Remember, instructions constitute text. The U.S. Copyright Office considers text a protected work. Separate from the project, the instructional text is a separate, protectable work. The instructions need to be followed and consumers must pay careful attention to whether or not copies can be made of the text/instructions. Once again, this can be



Always look closely at the copyright legend—it may surprise you! Not all designers, authors and publishers have the same copyright language, so be sure to follow the copyright rules of each particular packet, book or publication.

found in the opening copyright legend. If the legend is silent, then a copy cannot be made.

Remember, the text/instructions, while part of the pattern, are separate, protected items. It is possible to infringe an artist or copyright owner's copyright in the same manner with text/instructions that one can infringe the copyright of an artistic work or sculpture.

The Line Drawing

The black-and-white drawing that many purchasers use to transfer the pattern to a surface constitutes a separate protected copyrightable work. This line drawing, whether on a separate piece of paper or on the same page with instructions or pictures, must be used in a manner consistent with what the copyright legend states.

It is possible to make a hand copy of a line drawing to transfer paper and technically violate the copyright of the artist. It is very probable that making a mechanical reproduction of the line drawing will violate the copyright legend. A black and white line drawing may be easy to "take for granted" over a color picture. However, avoid the temptation; both are equally important.

The Finished Project

The joy! The pride! The accomplishment! Once you finish your project, you want to show the world. However, you need to practice restraint. A finished project is considered a derivative work of the original art (whether you're a skilled painter or not). Read the copyright legend for what you can and cannot do with the finished project.

An important point needs to be reinforced. Taking a picture of a project and displaying it either on the Internet or elsewhere can be considered copyright infringement as the picture is considered a derivative work of the original. This may sound harsh, but it gives the designer the ability to preserve the integrity of his or her work. Furthermore, in the age of the Internet, allowing a picture to go online opens the designer up to more infringement or uses that he or she may not want.

This all sounds very harsh, but it is important to note that it isn't as bad as it seems. First off, there is something called common sense that we all have. This means that if we act with integrity and treat someone else's work as we would treat our own, many problems can be avoided.

The second consideration regarding copyrights is something called an "implied" use of the copyright. You won't find this in any law books and most legal scholars will look at you funny if you mention it, but it helps

describe what most consumers deal with today. An "implied" use of a copyright occurs often. Many publishers print books that give detailed patterns and show a consumer how to make a project. Yet, the copyright legend is silent.

If true copyright law was followed then the project should not be made, as it would be a derivative work and, therefore, an infringement. However, copyright legends and the granting of a license to make a project are still new to our industry. Therefore, arguably, when a consumer purchases a "how to" book he or she would purchase the book because they would surmise the publisher implied to him or her that he or she could make the project since there are instructions and how-to put in the pattern or book.

An "implied" grant of use of a copyright is not a license to infringe on a copyright. Hopefully this is a wake-up call to designers to learn their rights and state in the copyright legend what a consumer can or cannot do with a pattern. For the consumer, hopefully, this will open their eyes to know what he or she is purchasing and what he or she can do with the pattern once it's purchased.

The sky is not falling regarding copyrights. A pattern has several different components with each component carrying different copyright protection. Whether it is the color picture, cover, line drawing, instructions or the finished product, each component of a pattern is a valuable asset for a designer and a valuable tool for a consumer. At the end of the day in copyright land the golden rule still applies: Do unto others as you would have done unto you. ☼

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Author's Sketch

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