**Copyright information for artist in the USA**

To the best of my knowledge this is true and correct information gathered from internet sources February 18, 2011. Roena King

#1. <http://painting.about.com/cs/artistscopyright/f/copyrightfaq2.htm>

**Question:** How Do I Copyright a Painting? Can I Copyright an Idea I've Had?

**Answer: As soon as you've created something in a tangible form, you have copyright on it**. If it's still an idea, you can't copyright it, but as soon as you've painted it, you have copyright on it but, importantly, it's the way you've executed the idea that's copyrightable, not the idea itself. **You don't need to register copyright for it to exist**. If you've created something for an employer or as work for hire, copyright belongs to them. (Though in the US to sue for copyright infringement, [registration](http://www.copyright.gov/fls/fl115.html) makes it less tricky.)

**A good way to make the ownership of copyright clear to anyone who buys a painting from you is to do what artist** [**Karen McConnell**](http://karenmcconnellartist.tripod.com) **does: "I sell most all of my original paintings with a 'Statement of Value' which includes (1) date of sale (2) price paid (3) whether it was purchased framed or unframed and (4) notice that copyright for the work remains with the artist. At the bottom of the form is a place for dated signatures from both myself and the purchaser. I keep a copy, they keep a copy."**

Disclaimer: The information given here is based on US copyright law and is given for guidance only; you're advised to consult a copyright lawyer on copyright issues.

#2. http://painting.about.com/cs/artistscopyright/f/copyrightfaq3.htm

**Question:** Artist's Copyright FAQ: Is a Copyright Symbol Essential?

**Answer:** [No](http://www.copyright.gov/fls/fl100.html), though it does make it very clear for people unfamiliar with copyright law. To prevent the defense of "innocent infringement**", use the copyright symbol, date of creation, your name, and if you want, the words "all rights reserved". You don't have to be registered with the US Copyright Office to use the copyright notice.**

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**#3.** I found companies that you can hire to fill out the paper work for a copyright for a fee of around $75. I found the copyright office where you could fill out your own form and register it yourself, but when I found the pricing for doing that I decided that was too much for me. I never actually found for sure prices for a work of art, but sounded pricey!

**#4.** **http://painting.about.com/cs/artistscopyright/f/copyrightfaq6.htm**

**Question:** Artist's Copyright FAQ: If I Change 10 Percent, Isn't It a New Image?

**Answer:** The belief that changing 10 percent of an image means you've created a new one is a myth (as is changing 20 percent or 30 percent). The fair use guideline is that you can use 10 percent of something.  
  
It's certainly not a legal test, but as a rule of thumb consider whether, if your painting were put next to the painting or photo you're copying, would someone say you'd based it on the original? If so, you're risking copyright infringement. Don't fool yourself with this 10 percent change myth.

**#5.** [**http://painting.about.com/cs/artistscopyright/f/copyrightfaq5.htm**](http://painting.about.com/cs/artistscopyright/f/copyrightfaq5.htm)

**Question:** Artist's Copyright FAQ: Can I Make a Painting of a Photograph?

*"I've found a lovely photo on the Internet and want to make a painting of it. Can I do this?" -- A.G.*

**Answer:**

A painting made from a photograph is known as a [derivative work](http://painting.about.com/od/artglossaryd/g/defderivative.htm). But that doesn't mean you can simply make a painting from any photo you find -- you need to check the copyright situation of the photo. Don't assume because the likes of [Warhol](http://painting.about.com/od/arthistorytrivia/ig/Gallery-of-Famous-Paintings/Warhol-Soup-Cans.htm) used contemporary photos that it means it's okay if you do.

The creator of the photograph, i.e. the photographer, usually holds the copyright to the photo and, unless they've expressly given permission for its use, making a painting based on a photo would infringe the photographer's copyright. In terms of US copyright law: *"Only the owner of copyright in a work has the right to prepare, or to authorize someone else to create, a new version of that work."*1 You may be able to obtain permission to use a photo for a derivative work from the photographer, or if you're using a photo library buy the right to use it.

You might argue that the photographer is unlikely ever to find out if you use it, but are you going to keep a record of such paintings to ensure you never put it on display or offer it for sale? Even if you're not going to make commercial use of a photo, just by creating a painting to hang in your home, you're still technically infringing copyright, and you need to be aware of the fact. (Ignorance is not bliss.)

The easiest solution to avoiding copyright issues when painting from photos is to take your own photos, or use the [Artist's Reference Photos](http://painting.about.com/od/artistreferencephotos/) on this website, photos from somewhere such as [Morgue File](http://www.morguefile.com/), which provides "free image reference material for use in all creative pursuits", or to use several photos for inspiration and reference for your own scene, not copy them directly. Another good source of photos are those labeled with a [Creative Commons Derivatives License](http://www.flickr.com/creativecommons/) in [Flickr](http://www.flickr.com/creativecommons/by-2.0/).

Photos being labeled "royalty-free" in photo libraries does not mean "copyright free". Royalty free means that you can buy the right from the copyright holder to use the photo wherever you want, whenever you want, how many times you want, rather than purchasing the right to use it once for a specific project and then paying an additional fee if you used it for something else.

As for the argument that it's fine to make a painting from a photo provided it doesn't say "do not duplicate" or because 10 different artists would produce 10 different paintings from the same photo, it's a misconception that photos aren’t subject to the same stringent copyright rules as paintings. It seems that all too often artists who would scream if someone copied their paintings, don’t hesitate to make a painting of someone else’s photo, with no thought to the creator’s rights. You wouldn't say "as long as a painting doesn't say 'do not duplicate' that anyone can photograph it and declare it their original creation".

The absence of a copyright notice on a photo doesn’t mean copyright doesn't apply. And if a copyright statement says ©2005, this doesn’t mean that copyright expired at the end of 2005; it generally expires several decades after the creator’s death.

I must figure out things in my sleep because as soon as I work up this morning I had a plan. I have only started to sell my work. Sold one yesterday, but have not delivered it yet so there is still time to do this.

1. I will put the copyright symbol (the circle with a “c” in it) on my paintings by my signature.
2. I will take a good photo of the painting
3. I will take a photo of me standing beside my painting
4. I will put on the back of the painting my full name, my artist R. King signature, the date, the name of the painting
5. I will take a photo of me standing beside the back of the painting
6. I will take a photo of the close up words on the back of the painting
7. I will put all these photos not only on my computer but on a DVD for a backup
8. I think a journal of this on a piece of paper might be a good idea too
9. I will name all the photos with the **date first** and then the name of the painting so that they stay in date order

I think what **this artist** [**Karen McConnell**](http://karenmcconnellartist.tripod.com) **does is good too: "I sell most all of my original paintings with a 'Statement of Value' which includes (1) date of sale (2) price paid (3) whether it was purchased framed or unframed and (4) notice that copyright for the work remains with the artist. At the bottom of the form is a place for dated signatures from both myself and the purchaser. I keep a copy, they keep a copy."**

So all that needs to be done to protect your rights is take some photos, write some words, and put it on a DVD for a record. I can handle this.

Next of course is to become famous! LOL

Roena

PS If you have any information to share would love to hear it.