

Originality and Fairness

Cheryl Magellan • Guest Artist

I belong to a small group of artists who host juried critiques four times a year. Artists bring in their work and a judge chooses six paintings from the submissions and those six paintings go on to compete for Painting of the Year.

Among the members, there have been numerous discussions about the meaning of “original” work, and there seem to be as many interpretations of it as there are members. This led me to do some research on what is meant by “originality” when it comes to competitions.

On fairness and “cheating”

Another complaint heard from artists is about fairness and/or what some artists would term “cheating.” This concern gets raised when discussing the process an artist uses when creating their art and it generally comes from artists who have been through years of schooling and decades of practice to be able to create representational art. Their complaint is usually focused toward artists who directly transfer an image (not drawn by themselves) onto their working surface, and especially if they have printed a photograph directly on to a canvas and painted over it.

Although I confess to be a bit of a purist myself in this regard, it would be difficult for a judge to know what went into the painting process without close inspection of the work, especially if the art has been digitally submitted. They would be more



Keiki Hula at the Palace, 24 x 24, oil on panel, Cheryl Magellan



Flying Geckos, 12 x 24, oil on panel, Cheryl Magellan

concerned with where the subject or image came from.

In fairness and respect for all concerned, from painters and judges to photographers, no art organization wants to deal with the fallout from copyright infringement. They do not want to give an award to an artist who has stolen another artist’s concept or design and used it as their own. This is why it is important for every artist to be clear about what kinds of references they are using.

Most organizations are rather vague about their eligibility requirements for submitting art. While a rule that states, “Paintings created in an instructional setting are not considered original artwork” is very clear, what is not so clear is a statement like “Only paintings of original concept and design are permitted.” OK. So what is an original concept and/or design?

The definition of “original”

An original work of art can be defined as a work of art that has not been influenced by others nor copied from the work of others, although it is pretty difficult not to be influenced by anyone. Art that is based on the work of another artist, or uses all or part of another artist’s work is known as “derivative” art.

In an ideal world, artists would have an unending supply of models or the skills of a master photographer to get the

reference materials from which to work, as well as the funding to travel the globe to get those references. Then there are artists who can work entirely from memory and their images are mostly fictional. Although I wish I could claim to be an expert on all fronts, admittedly I am not. So, unless I can hire my own models or photographers to take photos

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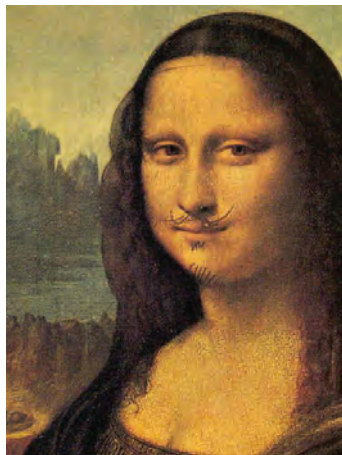
for me, I have to get permission to use images that are not mine. And, I choose these images carefully. I don’t just choose any image. The images I choose to make into paintings are never exactly like the original. I am editing my images. I am cropping them, adding things, subtracting things, and moving things around. When I do this I am creating my own design and concept for my painting; however, if I am using someone else’s photograph, this is what is referred to as “derivative art.”



Charmed, 6 x 6, oil, Cheryl Magellan

A well-known example of derivative art is the painting known as *The Mona Lisa with a Moustache* (below right) done by Marcel Duchamp in 1919. It is a copy of the *Mona Lisa (La Gioconda)* by Leonardo da Vinci (below left), with the obvious addition of a mustache.

Many artists incorrectly assume that if they alter a reference as little as 10% it is enough to call their painting “original.” You can gain information about a subject by noting, for example, the color or pattern on the wing of a bird, but if you copy anything at all from another person’s image, you need to get their permission. Keep in mind that model and/or property releases may also be required in some instances as well, so obtaining written permission is always best,



Derivative Art

A well-known example of derivative art is the painting known as *The Mona Lisa with a Moustache* done by Marcel Duchamp in 1919 (immediate left detail).

It is a copy of the *Mona Lisa (La Gioconda)* by Leonardo da Vinci (far left detail), with the obvious addition of a mustache.

especially if you plan to sell or display your work publicly.

When there is a certain subject I want to paint and I have none of my own references, I rely on professional photographers to either take the shots for me, or I will purchase the right to use images they already have. Most photographers are flattered that you like their work enough to search them out and are happy to collaborate. They like the recognition and will quite often, graciously give you verbal permission to use an image. However, being artists themselves, they would probably appreciate some kind of compensation as well. I know if someone wanted to use my artwork for their publicity, I would expect the same respect.

Having done the research, I have come to a better understanding of how to use references for paintings slated for competition. I feel more confident knowing I have records that back up my claims if ever a dispute were to arise. Still, it is the artist’s responsibility to use their better judgment and think carefully about what they are putting out into the world, especially in this age of the internet. If you are ever even a bit uncertain, do the research and/or stick to references you have created solely on your own by taking your own photos or painting from life. Eliminate the worry so you can get back to the painting.

Originality and Fairness for CPSA Exhibitions

Competitions do add another level of complexity to the discussion about originality and fairness. To help ensure a level playing field for all who enter, CPSA states in its **International Exhibition** prospectus, “Concept, design, and execution of the artwork shall be solely that of the artist. No work copied from copyrighted or published materials. No collaborations (works executed by more than one artist). No work copied from someone else’s photograph—even with permission.”

The **Explore This!** prospectus states that *not* allowed is “Work copied exactly from someone else’s photograph—even with permission. Photo references (other than your own) may be used only to help compose your original concept.”

About Cheryl Magellan

When Cheryl graduated from college, her BA degree in Fine Art focused on life drawing in graphite. It was not until 2010 that she added color to her world. Looking to fast-track her knowledge of color and paint, she nestled under the wings of over 18 artist high-fliers in Oregon, California, and the Scottsdale Artists’ School in Arizona. She can currently be found working out of her small studio space in the southwest corner of the Sonoran Desert, a hundred miles from nowhere.

An award-winning artist, Cheryl is an active member of the Portrait Society of America, Cecelia Beaux Foundation, Oil Painters of America, American Impressionist Society, Women Artists of the West, American Women Artists, Portrait Artists of Arizona, and other local organizations.