

Artists should avoid implying that the appropriated materials are their own, unless implying this idea is vital to the concept of the new artwork.

Artists must be ready to explain their artistic objective. This includes why they chose to incorporate copyrighted materials in this specific context, and what their new function is.

## COLLEGE ART ASSOCIATION

# FARTS COPYRIGHT ACT

## CULTURAL APPROPRIATION ALSO KNOWN AS CULTURAL MISAPPROPRIATION

When an individual from a powerful/dominant culture adopts elements from a culture systematically oppressed by the dominant culture.

### CULTURAL APPROPRIATION:

- >> involves a **power imbalance**
- >> the **dominant** culture profits
- >> the **oppressed** culture gets little/no compensation

For example, colonialists often appropriate folk culture — collectively created over generations — from the countries they occupy. For instance, Native American designs are often culturally appropriated for fashion and interior designs.

### IMPORTANT:

Anytime you encounter appropriation, ask yourself if there's a power imbalance in place.



Cite the use of others' work unless there is a specific detrimental reason not to.



If the work is sufficiently transformative, courts will often strongly favor fair use, even if the new use is commercial or includes the entirety of a copyrighted work. Be aware that simply changing the medium of the copyrighted material may not be sufficient to argue new meaning has been created. See "Is it enough?" for more.

Avoid using copyrighted material if it does not result in new artistic meaning.

Will the original copyright holder lose money because of this use, either now or in the future?

How does this use affect the potential market for, or value of, the copyrighted work?



Judges will examine the quantity and quality of the material used in relation to both the copyrighted work and the use, however there are no guarantees. In some cases, even using a small amount of a work can be found not fair if it is the "heart" of the work, while in other cases using an entire work has been found to be fair.

What is the amount and substantiality of the portion used in relation to the copyrighted work as a whole?

Was it creative, such as an artwork, song, or movie, or was it technical, such as a news story or instruction manual? Was the original copyrighted work published, or unpublished? Use of an unpublished work is less likely to be considered fair use.

What is the nature of the copyrighted work?



Is it transformative in terms of purpose or meaning? Does this work act as a substitute for the original work? Is it commercial or nonprofit? The definitions of transformative and substitution can be interpreted differently and not all nonprofit uses will be approved. Because of this, this question will be weighed against the other questions.

What is the purpose or character of the use?



## REMIXING & APPROPRIATION (incorporating the work of others)

compiled and written by Ellen Mueller in conjunction with **Remixing & Drawing: Sources, Influences, Styles**

<http://remixinganddrawing.com/>

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# GIFT ECONOMIES

Systems of exchange based on the concept of conveying goodwill or establishing a bond between people without expectation of any immediate or future reward.

## EXAMPLE:

Fan Art, which is art specifically created for a community of fans of an existing body of work, oftentimes related to movies, shows, cartoons, lines of toys, and so on. While some fan artists may attempt to profit from their work, most fan art exists solely for the appreciation of the community.



Johnny D. Wicked, **Pikachu in Tim Burton Style Blender Sculpt**. Here the artist has created a piece of fan art which depicts a **Pokémon** character, Pikachu, reimagined as a character from a Tim Burton story. © Johnny D. Wicked

# PUBLIC DOMAIN

When a work's copyright has expired or was forfeited by the creator, it joins the collection of works not protected by copyright that can be used and built upon by other thinkers and creators.



The rowboat bath is the newest contribution to the physical enjoyment of living

This illustration of a rowboat bath was originally printed in **Popular Science Monthly**, Vol. 88, January–June 1916 and is now part of the public domain. From the Biodiversity Heritage Library. Digitized by University of Toronto - Gerstein Science Information Centre.

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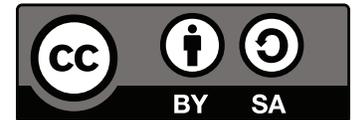


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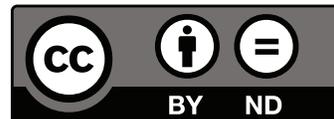
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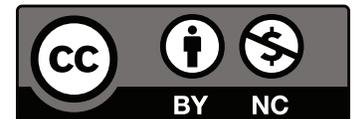
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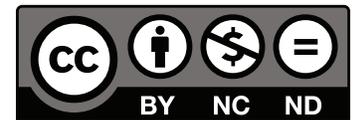
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# COPYRIGHT

ORIGINATOR

\$5 MATERIALS  
\$10 PLANNING  
(SELL @ \$20)  
\$5 PROFIT

COPIER

\$5 MATERIALS  
~~\$10 PLANNING~~  
(SELL @ \$20)  
\$15 PROFIT

The original goal of US copyright law, passed in 1790, was to ensure knowledge and culture were spread and promoted.

The current term of copyright is the life of the author plus 70 years, or if it is a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first, which is significantly longer than the original term of 14–28 years.

Loss-aversion and profit-oriented interests have caused this expansion of the breadth of copyright. Currently, there is no registration requirement, and any creative act in tangible form is now protected by copyright, including emails, texts, or children's drawings.