

How Copyright Affects the Quilter

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Copyright had never been an issue that I thought much about or really fully understood. But I understand both plagiarism and theft, which is really what copyright infringement is all about.

Since sharing has always been an important aspect of quilting, it is understandable that the issue of copyright is not even considered. What some of us unwittingly do is infringe upon the copyright of those who provide us with the designs we love to make. If we continue doing this we will make it unaffordable for the designers to continue their work. *As quilters, we need to understand the issue of copyright. Furthermore, once we understand it, we need to share that knowledge.*

An individual automatically holds copyright on any original work upon its completion. The work does not have to be registered to be covered by copyright law nor does the copyright symbol, ©, need to be displayed. *Copyright gives copyright owners the exclusive right to control what **copies** are made of their works.* These exclusive rights include the right to:

- produce or reproduce the copyrighted work in copies (i.e. copy patterns)
- prepare derivative works (e.g. make a cross stitch version)
- distribute to the public (e.g. class handouts, patterns)
- perform publicly (e.g. slide lectures)
- display publicly certain works (e.g. exhibitions)
- authorize the use of the design (e.g. give permission)

We all understand that photocopies are copies. That's easy. Anything, however, *in any artistic or print media* that uses the artist's design is a copy. This includes quilts based on the original design (even with significant changes they are derivatives), copies of the pattern, photographs, slides, drawings, etc.

Copyright infringement occurs whenever someone uses someone else's design (photograph, painting, poster, quilt, etc.) or pattern, class outline or a photograph/slide of their quilt for purposes other than those intended and/or without permission. It occurs when someone makes a copy of a substantial part of a copyrighted work, without the copyright owner's permission. It doesn't matter if these activities are done for free. Copyright infringement does not depend on money changing hands. Infringement is disregarding the copyright owner's exclusive right to control the copies made of her/his original work. In Canada copyright protection lasts for 50 years after the death of the copyright owner.

If you purchase a quilt pattern, the "Fair Use" of it is the same as its intended use - to make quilts for yourself or as gifts. What you may not do is to make the item for sale or to photocopy the pattern for your friends, guild, etc. When you have purchased a pattern or book, you are the owner of the physical book or pattern, *not of its contents.*

As have other instructors, designers and authors, over the years I have found myself dealing with infringement of my designs. Here are some examples:

In 2002 I learned of a German manufacturer producing and distributing a folding template for my *Magic Tiles* pattern. He had received a fax with a copy of my pattern, which he called

“his” *Magic Tiles* design and referred to the “grout” used in its construction, a non-quilting phrase I had coined for use with the “tiles”. With the help of a German lawyer, the offender was stopped at no cost to me. **The point to remember:** you may not use someone’s design in order to manufacture an item for distribution or personal gain.

In a virtual gallery website featuring Canadian artists I found a *Magic Tiles* quilt for sale. Since there was no reference to me or to my pattern, the implication was that the “artist” was the designer. The director of the gallery was most apologetic and quickly removed the images. I forwarded some copyright material to share with the “artist”, as I believe she was unaware of the law. **The point to remember:** to exhibit or sell a quilt from a pattern, permission and acknowledgement are required.

When I’d learned of a shop teaching *Magic Tiles* with photocopies of the pattern, I called without identifying myself, saying I’d heard they offered classes in *Magic Tiles* and wanted to know about purchasing just the pattern. I was told that it was no longer being published. After introducing myself, I said that we needed to resolve a copyright infringement matter. We did. **The point to remember:** a person (or shop or guild, etc.) may not sell, distribute or teach *for personal gain or to save others from purchasing a copyrighted pattern.*

In a magazine advertisement and website I found my *Magic Tiles* used as the backdrop for some quilting equipment. I learned that they had no idea they were infringing on my copyright; within an hour there was acknowledgement on the site with reference to my website. **The point to remember:** display is an aspect of copyright. *They needed my permission.*

On some guild and individual’s websites, images of quilts from major exhibitions are shared through virtual galleries. The quilters wish to share with their friends and colleagues the wonderful works they have seen. **The point to remember:** to display these images *they need the permission from each artist.*

Often at the guild meetings I visit as a guest speaker, there are quilts shown during “show and share” with no reference to the designers. **The point to remember:** strictly speaking, copyright law does not allow us to display someone else’s design. However, in the case of a guild “show and share” or “quilt show” it would be foolish for the designer **of a commercial pattern** to object - this is good promotion for her/his pattern. *But it is only good promotion if the designer and pattern or book is acknowledged.*

Occasionally a quilter takes a class, reads a book or magazine article and creates her/his own class using the handouts of a professional instructor or photocopies from the book or magazine. A colleague of mine once found photocopies of her teaching notes on silk painting for sale at a garage sale. The seller was selling fabric paints and these notes were “her” instructions. The seller was both distributing and profiting from material that belonged to my colleague. **The point to remember:** only the copyright owner may decide who distributes and profits from her work.

Often photocopies of a pattern from a magazine or other publication are shared among quilting friends or copied for the guild “block of the month”. The quilter will say it is fine, because nothing was charged for the copies that were shared. **The point to remember:** in this case, although the likelihood of being “caught” infringing is slim, it is unethical. *Only the copyright owner has the right to “share” in this way.*

A quilter has purchased a book or pattern and copies either the templates or a few pages to mark while working on a project. **The point to remember:** if the intended use of the pattern

or book includes the need to make copies, only the purchaser may do this for her/his own personal use. *Copies may not be made for others.*

It is my hope that this may shed some light on how copyright affects us as quilters. We need to protect our own original designs and respect the rights of other designers. Much more information is available. Below are links to some of the resources used in this article, as well as some found more recently.

Canadian Intellectual Property Office

<http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr02401.html>

Harris, Lesley Ellen. Canadian Copyright Law. Toronto: McGraw-Hill Ryerson. 2001

<http://www.mcgrawhill.ca/companion/copyrightlaw/>

Copyright Infringement on the Lost Quilts site

<http://lostquilt.com/index.php/protecting-quilts/copyright-infringement/>

Copyright Law & the Quilter from Dawn's pages

<http://www.reddawn.net/quilt/copylaw.htm>

Copyrights for Guilds Making Raffle Quilts by Carolyn V. Peters

<http://www.friendshipknotquiltersguild.com/Articles/AsktheExperts.htm>

Copyright Quiz for Quilters

<http://www.quilt.com/FAQS/CopyrightFAQ.html>

10 Big Myths about Copyright Explained

<http://www.templetons.com/brad/copymyths.html>

Copyright Basics (USA)

<http://www.copyright.gov/>

Note:

Since writing this article, I have been contacted by quilters requesting an explanation of the difference between quilts that have been inspired by the work of others and quilts that are derivatives of the work of others.

- Quilts that are inspired from another person's work must be **so different in design**, that they are not recognized as being related to the inspiring work, thus they are considered original and, therefore, would not infringe upon copyright.
- Quilts that are based on and/or use elements of another person's design are derivations of the original design, and, if exhibited in major shows, publications, websites, etc. without written permission from the designer would be copyright infringements.

Important Copyright Points to Remember

- An individual automatically holds copyright on any original work upon its completion.
- Copyright infringement occurs whenever someone uses someone else's design or pattern, class outline or photograph/slide of his or her quilt for purposes other than those given permission for, or intended for.
- Permission must be in writing and should spell out all the details of use.
- It is up to you to find the copyright holder and obtain their permission.
- Quilts made from patterns and articles may only be *for your own personal use*.
- Quilts made from patterns and articles may not be used **for personal gain**. This includes exhibiting and selling. If you wish to exhibit your quilt in a show, you must give credit to the originator of the pattern and have their permission to exhibit the quilt. If your quilt is awarded a monetary prize, the copyright holder should be notified and the prize shared.
- You may not use a pattern in order to manufacture an item **for personal gain**. You must give credit to the originator of the pattern and have their permission to manufacture a specified number of items. In addition to granting permission the copyright holder has the right to charge a fee and establish the amount of that fee.
- Technically, teachers/shops creating samples from patterns should have written permission to display the quilt sample(s). However since publicity would be considered fair use, that step could be eliminated. The displayed sample should have a label acknowledging the designer. If a teacher/shop wishes to sell sample(s) the permission should be sought and should indicate how many samples may be made and sold. It is up to the copyright holder whether they wish to charge a fee and to establish the amount of that fee.
- A person may not sell, distribute or teach **for personal gain or to save others from purchasing** a pattern from a magazine or any other source without the permission of the copyright holder. Articles/patterns from magazines, books, or class outlines or notes provided by an instructor may not be reproduced.
- The use of a different technique and/or medium **does constitute infringement** if the work is a **close copy of the original design or image**.
- Works that are inspired from another individual's work, but are **so different in design or image** that they are not easily recognized as being related to the original work are not considered infringement.

NOTE: *This article first appeared in the CQA/ACC newsletter, The Canadian Quilter. It may be reproduced and shared. Please note that it may only be used in its entirety citing the CQA/ACC and the author, Kathleen Bissett.*