

DESIGN

DECIPHERING THE MYTH SURROUNDING ORIGINAL, DERIVATIVE & COPIED WORK

by Anna Hergert

Every time a quilt judge enters the “hallowed” chamber of judging and joins a team of scribes, helpers, and dedicated guild members she/he is faced with countless challenges. This article focuses on design, a primary component in the judging process and specifically as it relates to originality.

Over the past several years copyright infringement issues constitute a part of the news almost daily. With tighter regulations in the US and in Canada, as well as increased awareness through public education, the art world has adopted strict observation of copyright. As quilters, traditional and innovative alike, we also must take responsibility, and differentiate between original, copied, and derivative work.

Beginning with *original*, the World English Dictionary (dictionary.reference.com/browse/original) defines the word as follows:

— *adj*

1. of or relating to an origin or beginning
2. fresh and unusual; novel
3. able to think of or carry out new ideas or concepts
4. being that from which a copy, translation, etc, is made

— *n*

5. the first and genuine form of something, from which others are derived
6. a person or thing used as a model in art or literature
7. a person whose way of thinking is unusual or creative
8. the first form or occurrence of something

Ergo: An original work of art, a quilt, fibre art piece or painting must be created independently (by one person or a group) based on a new idea, an original photo taken by the creator or sketches captured by the maker. It really is this simple! When submitting an entry for judging it is helpful to state that the work is original. These days the organizer usually provides a section on the entry form

and entry label to add this vital information. For a quilt judge it is extremely important to have this information on hand, as well. Valuable time is lost when helpers and scribes have to stop their assigned duties to locate the entry form to obtain additional information on originality.

Question: “What if I use a photo, which I found on line or a friend took for me, in my work? I am going to render it in fabric, which makes it an original.” The short answer is: Using a photograph created by another person does NOT make your work original no matter if you painted the work, manipulated the fabric and fibres or recreated the work in wood.

Let us assume that you have contacted the photographer, obtained written permission and/or bought the one-time reproduction rights from the artist. You proceed by selecting all or certain elements from the image, possibly change the colour scheme and move forward in fabric. It is important to realize that you are NOT creating an original work of art, you are creating a derivative of the original. As such you are obligated to credit the photographer with the inspiration for your work each time it is exhibited.

The official definition(s) (www.thefreedictionary.com/derivative) of *derivative* provides concise information and aids in understanding this term:

— *adj*

1. Resulting from or employing derivation: a derivative word; a derivative process.
 2. Copied or adapted from others: a highly derivative prose style.
- and
3. resulting from derivation; derived
 4. based on or making use of other sources; not original or primary
 5. copied from others, esp. slavishly; plagiaristic



A recent work by the author, *Suspended Animation*, is based on her own photograph.

Another scenario may be: A quilter buys a pattern and proceeds to create the quilt from this pattern. Changing the colours to any extent, whether it is 10 or 100% will not render this quilt an original.

Changing the border from the original pattern (from a book, the Internet or paper pattern) by “borrowing” an appliqué border from another published pattern, or drafting an original border to add to a paper-pieced centre will not make this quilt an original creation, either.

With original and derivative defined, I feel it necessary to elaborate on one more vital point—the work created in the classroom. Technically, any work created in a workshop, no matter how brief the time spent with the teacher, cannot be considered an original. Most often the instructor has spent countless hours developing and refining a design idea before offering a workshop to share the concept. Just as hand-outs are copyrighted, teacher input is a sharing of intellect and should be respected as such. However, here is the good news—once the workshop participant returns to her own sewing space or studio and further develops the concept

learned in the classroom, this subsequent work is considered original. In addition, it is important to point out that embroidery and quilting stitches are not copyrighted. Simple and compound stitches of any combination have been executed by our ancestors through the ages and as such they are in the public domain! However, when it comes to machine embroidery designs that are digitized it is crucial to obtain written permission from the designer/developer prior to exhibiting.

To summarize, I want to stress the importance of acknowledgment. Anyone who contributed to the quilt, artist, photographer, workshop instructor, etc. must be acknowledged, whether the show is a judged one or not. Ensure you have written permission from the pattern designer (whether it is a singular pattern or from a book) or from an artist of any medium whose work you are interpreting. Proof of written permission is also necessary when working from a photograph not taken by you. If the work was inspired by a painting by an artist who has passed away, make sure to check with his estate to avoid possible repercussions. Should your entry have been started in a workshop, the teacher's name must be provided.

With the focus on original design I am including a workshop handout developed over several years of teaching. It is a dynamic document (many of my past students may recognize this updated version) which will provide simple guidelines to help you evaluate, plan and create art based on the Elements and Principles of Design. In addition I encourage the reader to browse the Internet, check out books from the library and search through used bookstores for volumes on design. Secondhand textbooks from art school graduates are a wonderful resource when striving to better grasp the subject of design.