



Copyright in Collages

A collage is itself an artistic work, and provided it is original will be protected by copyright.

The creation of collages can however raise many questions with regard to copyright, particularly where the artist is using or copying existing images to create a new work.

You can, as an artist, use elements or parts of your previous work in collages even if you have assigned the copyright in such previous work, provided you do not repeat or imitate the main design of a previous work.

Obviously if you have not ever assigned your copyright in previous work you can use as much or as little of previous works as you like.

The difficulties arise with using elements or images from works created by other people. Firstly, you should check whether any existing work intended to be used in a collage benefits from copyright protection. This is established by calculating 70 years from the end of the year of the artist's death.

If a work is out of copyright, i.e. in the public domain, it may be used in any manner or form in the collage without reference to any other party. Having said that, one must remember that the medium in which any public domain image is reproduced may itself be a copyright work.

For example, you may have a photograph or transparency of a work of art where the work of art itself is in the public domain but the photograph or transparency is a separate work which is still protected by copyright.

However, if the work does benefit from copyright protection, you must consider what you intend to do with the work. You may infringe copyright if you reproduce the whole or a substantial part of any work which is protected by copyright.

What is substantial is a qualitative test not quantitative, so it may depend on how recognisable and integral any otherwise small element of the existing work may be.

If you intend to use a very small portion of the work, to the extent that it is completely unrecognisable or cannot be identified as any particular work, this use should not present a problem, and subsequent display and reproduction of the collage should not give rise to any complaint of infringement.

Anything more substantial will carry the risk of being a copyright infringement.

An additional, important factor that must be remembered is the artist's "moral rights". These rights were conferred by the Copyright, Designs and Patents Act 1988 and are effective from the 1 August 1989. One of the most relevant is the "right of integrity" whereby an artist can object to derogatory treatment of his/her work, this may include addition to, deletion from, alteration to or adaptation of an original work or any treatment that amounts to the distortion or mutilation of the work or is otherwise prejudicial to the honour or reputation of the artist. The cutting up and reconstructing of a work will probably infringe this right. (See Fact Sheet 2).

Note that only works created by an artist living on or after the 1 August 1989 benefit from moral right protection in the UK.

To summarise, an artist may create collages incorporating other copyright works provided that the elements used are so small as to be unrecognisable, but generally it is advisable to avoid wholesale use of other copyright works to create a new collage. Storing a work which is protected by copyright in any electronic medium also requires the permission of the copyright owner, this should be taken into consideration if you create a collage using a computer. Collages created which do not infringe other works themselves benefit from copyright protection as original artistic works.

If you have any doubts as to whether you are infringing another person's copyright you should seek professional advice.