

Who's Copying Whom?

By Dan Wenke

Copyright violations in China pose a danger for art buyers. Make sure you're not part of the problem.

There have been numerous articles and reports regarding copyright piracy abuses in China. CBS ran a report on it on *60 Minutes* in the past two years. I clearly remember it because Yiwu, the city where I live and work 80 percent of the time, was mentioned as the counterfeit capital of China.

During this holiday season I found a letter on my desk from a company that represents a number of publishers accusing me of marketing pirated images. My office gets and sends out CDs of pictures of mirrors and frames to prospective customers. On one of the CDs, there was framed art. The letter alleged that the art that CD was counterfeit. At the time we were not selling framed art, so all this came as surprise. Knowing my sources, which have their own printing presses, they would not hesitate to print counterfeit posters. We made contact with the publisher's representative and assured them that this was a mistake and that we were not involved in this practice. But it did occur to me how easy it is to get caught up in this mess, even for someone with experience in China.

But what is the root of this problem? Recently we made changes in our company because we were weary of every European or North American who came to China looking for the best price on something they were making or buying from a source in North America or Europe or even from other sources in China. We have been asked to copy mouldings, framed mirrors, and photo frames. Because of this, we now have our own designs and create original products because it's easier to lead than follow. However, most of China just waits for their marching orders from buyers.

We also have a local marketplace for prints. When I first went there to look at a few showrooms, I was amazed at the quality of images. Then I realized that everything was either a direct copy or what the British call "palming off"—creating very similar versions of originals. In my opinion, this is worse than direct copies because it clearly confuses the market.

My staff and I discussed this artwork. How did these

companies have such insight into the tastes of the market? How did they understand that there was a market for quality black-and-white photography almost on a fine art level? How did they know the wine labels of French and Italian wines so well that they could be incorporated into posters of oil paintings?

The answer is simple. People from Europe or North America who understand the market bring examples to China of what they want to copy or "palm off." The majority of this product is then framed and shipped back to Europe and North America. The cost of printing a 24" x 36" poster in China, with good quality paper and printing, is less than 30 cents. Add a frame that costs less than \$6, and you have all the incentive in the world to turn a blind eye to piracy—unless you're a normal, law-abiding businessperson, which I like to think I am.



Companies in China have factories full of canvas printing machines that they use to print whatever people—including Westerners—bring to them.

How It Works

Buyers come to the trade fair in China or have a trading company take them to different factories to get a sense of the factories' abilities. Many times they come with a project or product in mind.

Assuming they want images with wine bottles and labels, things are so organized in China that they really do not need to create from scratch. A few companies even take the time to create images that are either direct copies or have been altered somewhat.

The buyer becomes an instant legal expert on copyrights and decides that this is okay for them. After all, they have the legal "advice" from their trading company (which could care less and knows very little about U.S. and international copyright law).

The factory has a showroom full of framed art as well as catalogs from companies like "Wadoo," which are chock full of suspect images. The frame manufacturing company does not care about the price of the art because it is so low in China that they include it for free just to sell the framing. And, if that is not enough, many cities in China have showrooms of Chinese publishers that help the buyers and local framers get images for export

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production. I know one company that has a showroom for offset art and printed canvases and a small factory (a four-story building) full of canvas printing machines. It is about 15 minutes from my office, through a rice field and in a town where chickens run in the streets. More than 30 machines run at full speed, printing artwork. Most of these are their own images (which are suspect), but you'll also find anything else they have been brought to print. This company has a few plants around China. When I asked why they have so many plants, they say, "to serve the customer."

Artwork or Louis Vuitton?

When I walk down the streets of Yiwu, I see knockoff Nike stores, even a "Pepsi Sportswear" store. While I have no interest in them, someone must be buying the goods. I would bet that almost all of the Western print publishers who have come the Canton Fair have looked in horror at the stands that have copies (good and bad) of their artwork. It is quite possible that the same people may have purchased fake Louis Vuitton handbags for someone back home. Regardless of where you stand on the copyright issues in the art market, the law is the law. You can't buy counterfeit jeans or handbags or movies, then complain about copied artwork—just because that's the business you're in.

How to Do It Right

There are considerations you must take into account when working in any import market. If you want a framed print program that entails a few hundred to a few thousand per image framed, China is for you. China is about repetition and volume. Most of the successful wall décor companies I know are either shipping artwork purchased in the U.S. to China by ocean or air cargo to be framed. They avoid all the problems related to the

Basics Guidelines

1. Never purchase any artwork in China that looks like something you know to be a legitimate copy.
2. Send the artwork you purchase from a publisher direct to the Chinese factory.
3. If you cannot afford to watch and manage your own work, hire an agent, preferably one that also has offices in your country.
4. In China, moulding, glass and framing is a bargain. Artwork is a problem. If it looks too good to be true, it probably is.
5. If it walks like a duck, and talks like a duck, it probably is.
6. Buyer beware!

source of the artwork. This is what my firm recommends. These companies keep close tabs on quantities and expect the same number back that they shipped in.

If you purchase local artwork in China that is "Westernized," be prepared for problems. It is only a matter of time before it all goes boom! That means lawyers, cease-and-desist orders, and orders to examine your sales to determine how much in damages that can be legally assessed against your company. Worse, it can mean claims against your customers, such as retail chains or hotels. You ocean shipments can be tracked using readily available software. Your shipments can be stopped and inspected and even destroyed at the docks.

One company I know of lost a huge retail account because of this. Retailers want good prices but not at the expense of legal problems. Most make you sign a terms contract wherein one of the things you warrant is that you will be selling products that you have the legal right to sell.

Chicken or the Egg?

The Chinese have not created the problem. They are feeding off demand. If someone from the West was not guiding them, they would not have any idea what art products are popular. Maybe in a few years, they will understand that they should not engage in such practices. A few of the larger more successful companies have stopped. They have a customer base of the best and biggest importers that know and trust them. They do not have to be pirates to get business. The problem is that new factories open every day and will do anything to get your business.

Getting the Chinese government to solve the problem will also happen a lot faster for Rolex and Calloway Golf Clubs than for the art and framing industry. The only thing that will stem the tide is for art buyers to know better when they import from China.

At the last Canton Fair, a well-known publisher went from booth to booth asking different Chinese to take down counterfeit art. They actually did. They also put it right back up as soon as the publisher was out of sight. They could have cared less.

I cannot even count how many times I have heard "change the image enough so I don't have problems." That is where our company drops the suppliers. Changing the image by a magical percentage may or may not allow a company to skirt copyright laws. What's better is to prove to these companies that changing the art is a waste of money their and time. ■



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