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## Reagan Administration: Funding Cuts News Articles (1981-1982): News Article 46

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# For Artists, a Way To Stop Ripoffs?

By GRACE GLUECK

**W**HEN Harry Torczyner spotted a T-shirt adorned with a picture of a giant gull skimming the water, he got right down to business. He wrote to the manufacturer, asking why it had copied a painting by the late Belgian artist René Magritte without permission. And he made an arrangement with the company to pay royalties on the sale of the 4,900 shirts it had produced to Georgette Magritte, the artist's widow.

Mr. Torczyner and his law partner, Sigmund U. Wiseman, are concerned over what they say is an increase of art piracy in this country—the unauthorized copying, often with mutilating alterations, of the work of fine artists for commercial purposes.

They represent two large European artists' groups—the Société de la Propriété Artistique et Dessins et Modèles, and the Association pour la Diffusion des Arts Graphiques et Plastiques—concerned with protecting the interests of their members, among them Marc Chagall, Joan Miró and the estates of Magritte and Pablo Picasso.

"In copying—plagiarizing—an artist's work, companies violate his intellectual rights," says Mr. Torczyner. "But in the United States the concept of intellectual property doesn't exist for an artist—it's the ownership of a work that counts. So U.S. copyright laws do not give adequate protection against piracy, whereas in Europe there are laws that permit us to have pirated objects immediately confiscated."

The piracies range from heedless appropriations of an artist's work, done for decorative purposes, to deliberate attempts to defraud. Mr. Torczyner says. An example of the former is a wine bottle label, designed by the Belgian painter Pierre Alechinsky, for a 1966 vintage of Chateau Mouton Rothschild.

Last year, Mr. Alechinsky's drawing was appropriated by a Beverly Hills gourmet shop, the Wine Merchant, for use in the store's bronze sign, without mention of the artist. But after a letter from the two lawyers, the store agreed to add a credit line to the logo: "From a drawing by Pierre Alechinsky."

At the other end of the scale is a set of medallions, purportedly authorized by Marc Chagall, "reproducing" in bronze and in silver the stained glass windows he did for the Synagogue of the Hadassah-Hebrew University Medical Center in Jerusalem. But the medallions, currently promoted through the mails by an outfit called the Israeli Commemorative Society, were never seen by the artist, Mr. Torczyner says, and completely misrepresent not only his actual work, but his intentions. Since the corporation is Ohio-based, it is under investigation for consumer fraud by the Attorney General of Ohio, William J. Brown.

Other infringements have included the use of Magritte paintings on a jersey dress, a record sleeve, and in advertisements; the use of "Picasso" as a name for a new inn in the Poconos (that is now paying royalties to the Picasso estate) and potential gold and silver reproductions of a Picasso sculpture by a mint, the latter nipped in the bud by a letter from the two lawyers.

Even museums should not be absolved from the practice of art piracy, Mr. Torczyner says. He recalls that several years ago, the Whitney Museum sold postcards depicting only one-fourth of a painting by the California artist Ed Ruscha, whom he represented. On consultation, the museum stopped the sale of the postcards.

He and Mr. Wiseman also insisted that the Museum of Modern Art include the Société de la Propriété Identificative in its recent catalogue of a show dealing with art in Swiss collections that reproduced the work of two artists belonging to the organization.

United States copyright law is not particularly helpful in combating the piracies, Mr. Wiseman points out, "because it's mainly interested in copying—the concept of multiples—and not truly appropriate to a unique work. In the case of books and music, it's the number of copies that create the value, whereas in art it's the original itself that's the source of value."

Unless an artist is willing to go to the trouble of registering his creation and having a copyright mark © unethetically stamped on it, it goes into public domain as soon as it is offered for sale or shown in an exhibition where copying of the work, usually by photography, has not been prohibited. This will be partially remedied in a revision of the copyright law slated for next year. But the amendment, like the copyright law itself, is not retroactive.


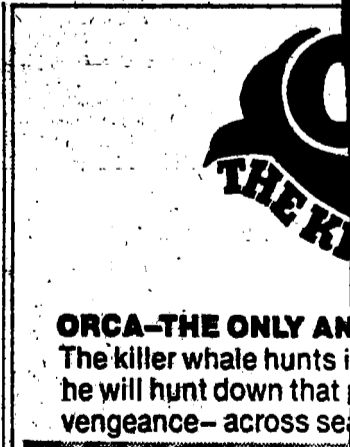
And so the two lawyers have turned to a "more positive" strategy: licensing, which allows a manufacturer "carefully supervised" use of an artist's image for the payment of royalties on sales. "The licensing sets up a factual and legal situation," Mr. Torczyner says, "that creates a tangible economic interest for the artist. His rights can then be protected against unfair competition and misappropriation."

And he adds, "We deal with ethical firms which recognize that the artist should be compensated for his work." Under the licensing arrangements, for example, Pacific Home Products, a division of Wamsutta Mills, will come out this fall with five new sheets bearing Picasso designs; Styl-Rite Optics will produce sunglasses with a Picasso design on the frame and case, and Picasso watches by the Bradley Time Division of the Elgin Watch Company should soon be making their appearance.

"We have now established that there are manufacturers who are willing to pay hundreds of thousands of dollars to use Picasso images," says Mr. Torc-

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