

The idea of intellectual property law essay sample

[Art & Culture](#)



**ASSIGN
BUSTER**

In modern society; the copyright system seems to restrict the development of the contemporary arts. A pragmatic relationship between the artist and the artwork is created by copyright as it relies heavily on the idea of intellectual property law. An issue with the copyright act is that the meaning of artistic work is only limited to a few definitions. The current system prevents contemporary artists from copying or utilising other related works, which exist in their own right with several exceptions such as the art of the 'readymade,' 'appropriation art' and 'conceptual art' in general.

Contemporary art practices unsettle the doctrinal certainty of copyright.

It is seemingly apparent that modern artists are unable to receive protection, so, therefore, utilise previous artistic works due to the limitations of the Copyright, Designs and Patents Act 1988. It seems modern artists are unable to receive due protection and use previous artistic works because of the limitations under the CDPA. The growth of digitalisation does not aid in protecting the artist because digital copies can be easily created and reproduced. This is a key issue which is suppressing the development of modern visual arts.

Paragraph 1

One type of contemporary art is performance. This "live art" is strongly defined by the artist's commitment to their own work. The artist will appear on stage, and they may not be alone as occasionally there will be some public participation in order for the work to exist. This was the case of a performance carried out by Marina Abramovic titled "the artist is present" (2010) where she was seated in a chair in the Museum of Modern Art in New York for two months for more than 700 hours. Spectators would sit in front of

her, sometimes for hours without talking. When analysing this work, must it be asked what are the limits of participation? Are the spectator's owners of this work? Does this work need protection? The UK law protects the creator and the author of the work and the law of copyright is covered under the Berne convention.

The Berne convention states that artistic works are to be protected in member states of the Berne Copyright Union. Article 2 of Berne states that "the expression, " literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression." When determining copyright protection most States do not discriminate between the actual quality of artistic works, it just has to be an " artistic work" and not one of a certain quality threshold. This is also the case in the UK due to the fact that " artistic works" are protected no matter what the quality of the work may be. The governing legislation, The Copyright, Designs and Patents Act 1988 (CDPA), states these works will be protected " irrespective of artistic quality."

The law of Copyright suggests that artistic creations have no particular value as solely appeals to a separation between the public domain of art and the privacy of the home and the industry. This separation is an underlying problem between art and the law. ' Copyright law in the U. K. has no category of " art" ...Copyright law, therefore, cannot recognise whole swathes of contemporary practice in the visual arts as having any claim to legal protection as such.' Arguments relating to what constitutes artistic or visual representations are relevant due to developments which challenge the dogma of the legal world.

Jeff Koons reproduced the original works of Rogers clearly and illegally according to the law. On the other hand, in the art world, he was simply expressing his own impressions of Roger's work, by artistically recreating it in his own way. The case of Koon v Rogers had a greater bearing on the economic impact of the original artist. Therefore, it was clear that copyright was in place to protect the economic interests of the original artist. Koons stated that 'when visual imagery gets copyrighted,' it takes away 'a vocabulary' from the artist and the public. This suggested that artistic work could not be fully enjoyed by the public or other contemporary artists if copyright was in place which suggested a need for change in the law.

Where there are instances of copyright 'infringement' a new light is taken on these distinctions. Due to a concern to protect economic values of the value of reproduction in works; the courts seem to bypass the distinction between the actual art and business, the mass reproduction of the unique is protected by the courts with little consideration for the double entendre created. The security does strengthen the private realm of the home due to the fact that the production and reproduction of the work is protected so the artist can provide for the home and those who reside there.

Therefore, it is true that copyright does restrict any kind of physical use of others artistic works which may protect an author's economic interests and ensures that the idea will be protected for a substantial amount of time. However, in the eyes of many modern artists, this is a hindrance to their techniques. Koon's suggested that the value of an object is irrelevant as the artistic value is far greater than its economic value.

The copyright act of 1956 does seem to have a good intention in protecting a creation and allowing others to enjoy a piece, some artists believe this is inadequate as they believe true contemporary art should be appreciated and interpreted more physically rather than just simply admiring from a distance. The existence of such modern artists in the mainstream media helps to highlight the issue which reaffirms societal and artistic change. The law must alternate in order to remove the limitations on these artists otherwise they may be permanently hindered by copyright which therefore condenses modern art and disallows it to fulfil its absolute potential.