



A DAY IN THE ARTS

Making art accessible to all

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LICENSING ARTWORK?

HOW TO PROTECT YOUR "ASSETS" WHEN ENTERING INTO AN AGREEMENT TO LICENSE ART

By Chris London

As fun and exciting as Art Licensing is, there are some things you should know before entering into any contractual agreement. So, what should you look out for when negotiating a licensing contract? Here are some key elements.

For an artist there's nothing more rewarding than seeing your art on actual product out in the retail environment. I've been designing and developing art and products for licensing for quite a while now and it's still like Christmas every time I receive product samples for approval. I can't tell you how much I enjoy opening boxes filled with various product samples that I have designed and created. Maybe you already know this feeling or maybe you are just starting to venture out into the world of artwork licensing. I hope so! If you are just starting out then you should check out Surtex National Stationery and Gift Show in New York. This show is one of the best ways to show your work to people actively seeking new talent.



Artwork Licensing can be an extremely rewarding and profitable venture. There are many benefits to licensing your artwork. The obvious benefits are that you retain ownership and copyrights to your creations while other people market and distribute your creative works for sales. This allows you to gain passive income through royalty payments, usually paid quarterly, and the ability to use that same art in new ways for future profit.

As fun and exciting as Art Licensing is, there are some things you should know before entering into any contractual agreement. First of all, there is a lot that you won't know in the beginning of your licensing career and a ton that you will learn along the way, but you should have a good understanding of what the terms of your agreement will be before signing

WORD OF THE DAY golden mean

A proportional relation (ratio) obtained by dividing a line so that the shorter part is to the longer part as the longer part is to the whole. Another way to describe this: a proportion between the two dimensions of a plane figure or the two divisions of a line, in which the ratio of the smaller to the larger is the same as the ratio of the larger to the whole: a ratio of approximately 0.618 to 1.0 The Golden Mean produces a harmonic effect called eurythmy found in nature as well as in a wide variety of works of art and design. Artists of various periods and cultures have found that dimensions determined by this formula are aesthetically appealing. *Source: artlex.com/*

"I can't always reach the image in my mind.. almost never, in fact.. so that the abstract image I create is not quite there, but it gets to the point where I can leave it."

- German artist Gerhard Richter

ART AEROBICS

Practice you drawing skills
Using any medium, draw your own waves
after watch Phil Robert's demonstration.

<http://tinyurl.com/lvj4nw>

anything. If you are presented with a licensing contract - review it and understand that you are the one licensing the art and you have the power to negotiate your terms. Also, it's always a good idea to have your own copyright attorney review the contract.

Before we discuss this topic further let's get familiar with a few terms, that is if you are not already familiar with them.

1. Licensor - You!
2. Licensee - the company you are licensing artwork to.
3. Royalty - The percentage you will be paid on the sales of your art.
4. Net Sales Price - the price for which the Licensee sells the Licensed Products
5. Licensed Design - shall mean those designs owned by Licensor and incorporated into one or more Licensed Products
6. Sell-off-period - A period of time used by the Licensee to clear out licensed product. This usually takes place at the end of a contract when the licensee needs to dispose of all of its existing inventory of Licensed Products on hand. During the Sell-off Period, no royalties shall be payable to Licensor for the sale of Licensed Products that must be liquidated (sold at or below cost).

Every licensing contract can vary in detail, however, there are some key points that should never change. Your licensing contract should clearly state that the licensed artwork is yours and that you retain the rights to the artwork being licensed. You should specify that the "licensee" (the company you are licensing your artwork to) does not have the right to sublicense your art to other companies without your written

approval. Also, under no circumstances is the licensee entitled to any ownership rights to your original art nor do they gain any copyrights to any piece of your art. In fact, you should specify your own copyright line to be used on every product that the licensee produces. Would read something like:

© YOUR COMPANY NAME
HERE
All Rights Reserved
Licensed by (Licensee's Company
Name Here)

You will probably find that most negotiation comes into play when determining your royalty percentage. Here are a few common ranges of royalty rates in the giftware industry that may help guide you in determining an appropriate royalty percentage.

- * Greeting cards and gift wrap:
2% to 5%
- * Household items such as cups, sheets, towels:
3% to 8%
- * Fabrics, apparel (T-shirts, caps, decals):
2% to 10%
- * Posters and prints:
10% or more
- * Toys and dolls:
3% to 8%

As I previously mentioned this is a scale of acceptable industry standards. In my own experience, I have found 5% to be a very standard and acceptable rate for most items.



However, for some stationery items like gift cards and gift wraps 2% is the acceptable standard. If you are just establishing yourself as a licensing artist it would probably be wise to aim for the 4-5% as opposed to the 10%. In this part of your contract you can expect to see a line stating that no royalties shall be payable to Licensor for the "closeout" sale of Licensed Products that have been deleted from Licensee's line of products. The licensee will almost certainly include this statement in your contract, however, one thing that you should stipulate directly after that line is that the Licensor must be notified in writing prior to the "closeout" of a line or products and that any licensed products sold during the "sell-off-period" that are non-liquidation orders are subject to royalties. Yes, a company will liquidate its products and product lines to clear out inventory, but not all sales made during the sell-off-period are liquidation sales which you should be paid a royalty for.

Keep your licensing arrangements clear, concise and simple. You may get advice from people to get an advance against royalties or

negotiate a one time licensing fee. These are not common practices for people just getting into licensing. An advance against royalties is exactly what the term states - an advance payment on future royalties on a licensed work. My personal belief is that it is better to negotiate terms with a fair percentage that works for you. Then make sure to avoid unnecessary deductions such as sales commissions, undefined "fees", or any marketing, promotional and advertising expenses that the licensee engages in. Some deductions are acceptable, for instance deductions made before the royalty is calculated for taxes, credits, and quantity discounts.

I really enjoy art, graphic design, and the rewarding feeling you get from seeing your art out in the market place. I would like to see more artists reaching out to the public with their creative works. It takes time to build a successful licensing career. The key is always play to your strengths. Stand apart by doing what you do well and not replicating others. When it comes time for you to enter into a licensing arrangement - I hope that you have found this article helpful. I would also like to offer a template for a standard contract regarding the licensing of artwork as a resource to help give you a heads up on how to protect your "assets".

This licensing contract template, set up for a standard 5% royalty.

You can find this template at:
<http://www.pixelproductionsinc.com/news.php>
or
<http://pixelproductionsinc.com/blog>

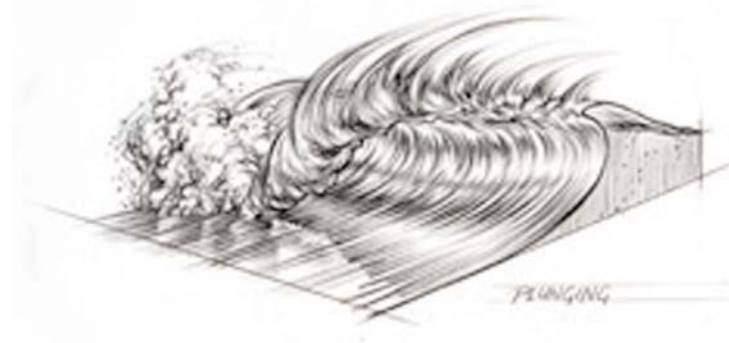
Please note: This contract is intended to be used as a reference to help artists looking to establish licensing agreements for their artwork. Any legally binding agreement that you enter into should be reviewed by you and your attorney prior to enacting said agreement. This material is a reference for you, but we are not responsible for any legal agreement you enter into. 🐟

About Author
As the Art Director for Pixel Productions Inc., I have had the privilege of creating and designing art used for licensing on hundreds of products from stationery to mugs and door mats. You can find our art in retail environments like Hallmark, Michaels, and Target. As a graphic designer, being able to take part in designing art for licensing is such a rewarding experience and one that I hope many young artist will be able to know. You can see my work at: <http://www.pixelproductionsinc.com>

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ART NEWS



CATCH A WAVE

Artist Phil Roberts demonstrates how to sketch a wave.
<http://tinyurl.com/lvj4nw>

ART AUCTION TO CELEBRATE CHARLES RIVER

Calling all art lovers and friends of the Charles River! The Waltham Riverfest Committee invites you to Come for the Art and Stay for the Bidding on Saturday, June 13 at a reception and art auction featuring 'fresh' paintings, drawings, and photographs of the Charles River created earlier that day.

The artists' reception, starting at 4pm, and the art auction, starting at 5pm, will be located at the Center for Digital Imaging Arts at Boston University, 274 Moody St., Waltham. Reception and art auction are free and open to the public. Municipal parking is plentiful.

Artists from Waltham, greater Boston and beyond will spend the day along the Charles River creating art inspired by this beloved and scenic river as it meanders through the heart of Waltham. These freshly created pieces - some will still be wet -

will then be auctioned off to the highest bidder. The Paint the River Art Auction is part of Waltham Riverfest, sponsored by the Waltham Cultural Council and the Downtown Waltham Promotion Committee. Auction proceeds will support community cultural events.
www.walthamriverfest.com

BRAD PITT BUYS RAUCH PAINTING

Actor Brad Pitt conferred with well-known art collectors Eli and Edythe Broad before deciding to offer nearly \$1 million for the Rauch painting “Etappe” (right) at the Art Basel art fair in Basel, Switzerland. The 1998 painting depicts a swirling view of a driver behind a red, Formula One-style racecar, with workers nearby carrying candy-colored hoses.

According to Wikipedia, “Neo Rauch (born 18 April 1960, in Leipzig, East Germany) is a German artist whose monumental paintings mine the intersection

of his personal history with the politics of industrial alienation. His work reflects the influence of socialist realism, and owes a debt to Surrealists Giorgio de Chirico and René Magritte, although Rauch hesitates to align himself with surrealism.”

The Broad family apparently owns a couple of Rauch paintings themselves and

nudged Pitt along by saying they might buy the painting if he didn't.

Photo: David Zwirner, New York and Galerie Eigen + Art, Berlin/Leipzig

VENICE BIENNALE

The world's oldest art festival has opened to the public in Venice, Italy featuring the work of 90 artists from 77 coun-





tries. According to CNN, the "Venice Biennale has been running since 1895, featuring architecture, dance, cinema and theatre as well as decorative art and is often described as the "Olympic games of the art world."

American Bruce Nauman won the top prize this year for the work pictured left. The

Golden Lion award is presented for best national participation. <http://www.labiennale.org/en/Home.html>

1,500-PIECE ISLAMIC ART COLLECTION

Berlin's **Pergamon museum**, right, announced Wednesday that it had acquired on permanent loan 1,500 pieces of Islamic art from the 8th-17th centuries known as the Keir collection.

The **Museum for Islamic Art**, a branch of the Pergamon, said in a statement that the collection had been deeded to the museum by 91-year-old collector **Edmund de Unger**.

Unger, born in Budapest, moved to England after the Second World War and began collecting Islamic art in the 1970s. He said in the statement that he wanted to share the collection of tapestries, carpets,

bronze objects and rare books with other Islamic art enthusiasts. The museum said select pieces will be put on display in December. The rest of the collection will be transferred to Berlin after Unger's death.

ON THE ROAD AGAIN!

For the last 34 years, the **Art Cart** has traveled through the lazy days of summer to bring art to kids in Madison and Dane County (WI). This popular outdoor art program hits the road again this June, July, and August, bringing art adventures to parks, playgrounds, and beaches throughout the area.

Two programs, **Art Cart** and **Art**



Cart EXTRA!, offer free art-making experiences to kids and their families. Participants are able to try their hand at art media from printmaking to painting. Both programs invite families to just drop by and join in the fun. This year, Art Cart is scheduled for more than 90 stops within the city of Madison, including nearly 20 evening programs for families with busy day-time schedules.

Art Cart kicks off its season on June 18, traveling to parks, beaches, and playgrounds in Madison. Organized by the Madison Museum of Contemporary Art (MMoCA) and Madison School & Community Recreation (MSCR), Art Cart runs through August 20, excluding July 3.

Art Cart EXTRA! takes the program to eleven additional communities on Saturdays. Art Cart EXTRA! is a program of MMoCA and will visit Black Earth, Cross Plains, DeForest, Fitchburg, Monona, Mount Horeb, Stoughton, Sun Prairie, Verona, and Waunakee. Two sites are visited each Saturday during the six-week program, which runs June 13 through July 25, excluding July 4.

Activities offered by both programs are appropriate for kids 3 to 8 years old, although all ages are welcome. All children should be accompanied by an adult. Participants should "dress for a mess" in comfortable clothing. 🐾

