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Art Dealer Reproducing And Selling Work Without Permission
[Kristie Prinz](#)

Q.

I make paintings that a dealer was buying for over three years. He photocopied my designs and is having other people duplicate my paintings. He has not bought anymore paintings since then and I see our designs for sale in shops all over the net and throughout the USA. Is there anything I can do? Our sales have dropped and we are hurting financially.

-- *Hosteen***A.**

Based on the facts you have provided, the art dealer is clearly infringing your work and you definitely have the right to take legal action against him. However, you need to keep in mind that it can be expensive to file an infringement suit, and if your finances are already strained, the reality is that you may not be in a position to pursue a case against him.

The general rule on copyright protection is that the copyright in a work immediately subsists from the time it is first created in a fixed form. Thus, in the case at hand, as the painter, you own the copyright in each of your works and have owned that copyright from the moment of creation.

In copying your works without permission and selling them, the dealer clearly infringed on your copyrights in each of the works he copied and sold.

So, what can you do to enforce your copyright in your works?

My advice is to consult with some [copyright litigators](#) in your jurisdiction to determine how much it is likely to cost to pursue a case against the dealer. After you have that information in hand, you should be able to make an assessment as to whether or not you can afford to pursue a case against the dealer.

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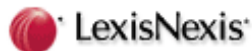
While it is true that some attorneys do take cases on a contingency basis, you will have to do some research to determine whether there are litigators in your jurisdiction who will agree to take a case like this on a contingency basis. The reality is that contingency cases are very expensive for attorneys, and they will only take on such a matter in cases where they have the money to support a contingency case and they are certain that the risk will pay off, which may or may not be the situation in the case at hand.

You also may want to check with your local chapter of Lawyers for the Arts to see if there are attorneys affiliated with the organization who might be willing to take on the case on a pro bono basis.

If litigation is not an option, or you would prefer to pursue another course of action before resorting to the courts, another option may be to consult with an IP transactions attorney with expertise in copyright law, in order to discuss the possibility of approaching the dealer about licensing the works he is currently infringing. While approaching the infringer will not result in success in all situations, it can be persuasive when the infringing party believes that it is in its best interest to resolve the issue. Typically, the threat of a lawsuit is what is needed to persuade an infringer to sign a license agreement and settle the matter, but negative publicity could in some cases be enough of an inducement, as well. The advantage to trying to negotiate a solution is that it will likely be less expensive than litigation; however, there are no guarantees that such efforts will be successful. You still may end up in the same situation, requiring litigation to resolve the dispute.

-- Kristie Prinz

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