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Does A Purchase Allow For Reuse Of The Images?

[Kristie Prinz](#)

Q. If I bought and paid for a couple paintings from an artist, am I legally entitled to use those for the promotion of my band? They will be appearing on web, print, merchandise (for sale) etc.

-- Steven

A.

Based on the facts you have described in your question, you most likely do not have the legal right to use the paintings in the advertising and promotion of your band.

In general, the ownership of [copyright](#) in a painting can only be transferred by assignment. The purchase of a painting generally does not transfer ownership of the copyright in the work. Even if the painting was commissioned under a "work for hire" arrangement, ownership of the copyright will only be transferred to the person or entity commissioning the work only if there is a writing memorializing an express transfer of rights from the artist. Otherwise, the artist retains the full ownership of rights in his or her works.

Given the facts you have described, it does not appear that you have obtained from the artist an express assignment of rights in the painting when you purchased the work.

In the absence of an express assignment of rights, you may use the painting in the assignment and promotion of your band if you obtain from the artist a license to use the painting for the purpose of advertising and promotion. In most cases, the artist will charge a royalty rate for the commercial use of the painting; however, in some cases artists will provide you the rights to use the painting at no additional charge. My recommendation would be that you hire an [intellectual property lawyer](#) experienced with drafting license agreements to negotiate and draft a license agreement on behalf of your band that carefully defines the terms of the license and the scope of the royalty obligation, if any. Taking such actions will limit the likelihood of a lawsuit arising down the road between your band and the artist, and it should legally provide you with the rights you seek to advertise and promote the band using the painting you have purchased.

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-- Kristie Prinz

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