

REJECTING THE WORKS OF DAN FLAVIN AND BILL VIOLA: REVISITING THE BOUNDARIES OF COPYRIGHT PROTECTION FOR POST-MODERN ART

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Contemporary art fascinates, disturbs and infuriates. Many artistic projects have recently attracted attention in the world of post-modern art by challenging the binary dichotomy between idea and expression of an idea, between original and copy, while they disregard major concepts in Copyright law such as originality, authorship and personal execution of a work of art. Visual arts have expanded from their traditional territories of painting, drawing, printing and sculpture to embrace new techniques, methods and to produce installations, interactive artworks on an ever larger and more spectacular scale and in mixed media and environments. These new artistic practices have brought forward possibilities for the transformative use of existing objects and artwork. This beyond the derivation of new meaning also raises questions about how post-modern art is controlled through copyright. In other words, are the traditional Court today standards a meaningful tool for resolving copyright disputes for this type of creative work? This paper studies classification controversies of selected video art and light installation works, which do not seem to fit the traditional criteria in order to be eligible for copyright protection. This article examines the recent European Commission's decision that refused to classify as art an installation of Dan Flavin and a multimedia work of Bill Viola. It is not the first time that a judge dears to question the value of an artwork even if it has been largely recognised by the institutions and the artistic intermediaries. Who plays a primordial role in the qualification of a work of art? What is the relationship between creativity and production? Where is the art and where is the artist? How post modern art is or should be controlled through copyright? These are only some of the key questions that are going to be examined with a particular interest to the idea/expression dichotomy as a copyright limiting tool that should be carefully revisited considering the effects of technological advances in art.