

Chapter 5

Reproductions in Art



Abstract The economic approach to art and culture takes a rather positive attitude towards copies, reproductions, and fakes. In contrast, the art-historical view tends to regard them in a negative way. The multiplication of the original creates utility for individuals demanding and paying for replicas. However, forgeries do create some problems. Significant costs are created on both the demand and supply sides of a market by both originals and copies. But many such problems can be mitigated or even overcome by appropriate legal constructs and institutional arrangements.

Keywords Copies · Reproductions · Fakes · Forgeries · Moral view · Legal view · Originals · Art history · Recognition

5.1 Contrasting Views on Copies and Fakes

5.1.1 *The Moral View*

The sense that copying art works is wrong has changed strongly over time. In former centuries in the West, and even more elsewhere, replicating the work of other artists was a perfectly acceptable activity. Michelangelo reproduced a work by his master Domenico Ghirlandaio in order to demonstrate his ability as an artist. There are even accounts of purchasers who welcomed a reproduction, even though they had bought it as an original.

In modern times, some artists, such as Salvador Dalí and René Magritte, have intentionally erased the difference between original and fake in order to revolt against the burden of the dead past. Obviously, if these artists, and movements such as performance art, auto-destructive art, and earth art, refuse to make the distinction, there is neither a moral nor legal case against “fakes”—the term loses its meaning.

5.1.2 *The Legal View*

Lawyers tend to look at fakes in terms of forgery and counterfeiting; fraud should therefore be prohibited. They are concerned with fraud linked with the production, sale, and purchase of reproductions. Two situations are prominent.

Firstly, a person buys a fake assuming it to be an original. He or she has acquired a work of art and can have reasonable expectations that it meets the conditions under which it has been sold. Thus, a painting bought from a well-established art dealer or in bidding performed in a respectable auction house should indeed be an original. Most auction houses guarantee that if the painting does not turn out to be an original as specified, it can be returned. However, in other cases where the seller deliberately cheats the buyer, the transaction constitutes an illegal act.

Secondly, an artist creates a tangible work such as a painting or sculpture or an intangible one such as a novel, play, or piece of music, but steals the idea from another artist without consent or compensation.

5.1.3 *The Art Historic View*

The dominant position in art history is that the original has a special and unique quality that fakes lack. The original oeuvre has an “aura” which, though invisible, is nevertheless taken to be real. In many cases, it is no longer possible for a viewer to distinguish the original from a reproduction; not even sophisticated technical means are always able to differentiate them. It is therefore the context and history of the original’s creation which marks it as such and not its physical or aesthetic aspects. Yet the difference *is* real in the sense that most owners of art works are terribly disappointed when they detect that a presumed original piece is a copy. Nevertheless, it should be noted that this “cult of the original” is historically dependent. Vasari actually considered Michelangelo’s copy of a statue by Ghirlandaio a triumph and this established the young Michelangelo among the great sculptors.

In contrast, Van Meegeren’s copies of Vermeer were considered much inferior, but only once they were detected. The German artist Beltracchi became famous because he did not copy famous artists. Instead, he used their painting styles to create new works of art. He was imprisoned because he signed the new paintings with the names of the original artists. He no longer does so but develops as an artist in his own right. Many consider him to be a genius because he has the great sensitivity to paint works that famous artists could have painted but did not.

Partly due to these developments, some art historians take a more sanguine view of reproductions and fakes and no longer consider the aura to be attached only to the original. Instead, works of art are taken to be part of history, including their modifications, renovations, and copying.

5.2 Beneficial Aspects of Imitations

An economic point of view identifies three major benefits of copying.

5.2.1 Copies Provide Utility

The fact that an original is imitated and reproduced indicates that it is in demand. Consumers experience a benefit from viewing, reading, or hearing a work of art, which is reflected in their willingness to pay for it. Imitations serve to propagate the original to a wider audience, and so raise the total utility for prospective consumers. Owners of original artworks, among them most leading art museums, have started to sell exact replicas of selected pieces of their collections. This propagation effect also occurs when copies are made illegally. Some museums even deliberately mix copies with originals.

The creator of the original work of art may benefit from such imitations in two ways:

- He or she may receive royalties from legal copying. In the case of music, this is usually the artist's major source of income. It is of lesser importance for paintings, though in some cases the income gained is substantial.
- Even if copying is done without the consent of the creator of the original (i.e. illegally), he or she may nevertheless benefit indirectly from it. The creator's name is propagated, thus allowing him or her to sell future original works at higher prices.

The extent to which the propagation effect benefits the creator of the original depends on the specific conditions of an art market and the extent to which the copies effectively signal the original and its creator.

5.2.2 Artistic Capital Is Promoted

To produce faithful copies of great works has always been one of the major ways in which artists train themselves. This applies not only to lesser-known artists but also to painters who became great masters later in their lives. In addition, the existence of fakes presents a continuous challenge for art experts.

5.2.3 Supporting Creativity

The smaller the barriers against imitating, the greater is the scope for future artists to experiment. If the creator of the original can easily interfere by legal injunction,

artistic creativity is hampered. Few great artists have not borrowed from earlier masters, and some of them have done so extensively—such as van Gogh or Dalí—and this has benefitted the arts.

The distinction between originals and copies is blurred. The term *original* is often poorly defined, and there is a continuous history in which copies, reproductions, and renovations play a role. Art does not end with the creation of the “original”. A case in point may be Michelangelo’s paintings in the Cappella Sistina: it is open to serious discussion what the original is, and where. In any case, thorough cleaning revealed a “new” art work to contemporary art lovers and art experts alike. The distinction between the original and copy has been further blurred in the digital age, which has made it possible to produce identical pieces of art at low cost.

5.3 Harmful Aspects of Imitations

It is useful to distinguish between the demand and supply sides.

5.3.1 Demand Side

Fakes present buyers with greater uncertainty about works of art they intend to purchase. There is a constant race between forgers and investigators. Both use increasingly sophisticated technical means. There are periods in which one side seems to prevail, but the incentives both to forge originals and to detect fakes is so strong that it can safely be predicted that neither side can win a permanent victory.

The uncertainty induced by the existence of fakes imposes costs on financial investors looking for high monetary returns from buying art. Provided that the indirect effect of propagation is small, they suffer a loss from the manufacture of copies and, of course, from buying a piece of work that is presumed to be original. However, such loss is smaller than it seems at first. Reasonably informed buyers are well aware of both problems and are therefore prepared to pay a correspondingly lower price for the artwork.

Uncertainty due to fakes does create real resource costs in the form of outlays of time, effort and money for search and information activities. As economic theory predicts, these costs create incentives to mitigate them:

- There are specialized suppliers who can be trusted, because they would otherwise lose their reputation and future business. There is a niche for serious art dealers, galleries and auction houses.
- Legal rules exist which allow hedging against various degrees of uncertainty.

In both cases, higher certainty about the artwork is reflected in higher purchase prices. There is thus a trade-off between risk and price, thus allowing prospective buyers to choose a particular degree of certainty. It is wrong to think that buyers are solely the passive victims of forgers; they can react actively to the possibility of fakes.

5.3.2 *Supply Side*

Fakes affect the incentive to produce original art. There is a trade-off. Free imitation of originals produces utility for consumers, but at the same time reduces the direct profitability of innovations to producers. Most legal systems strike a balance by granting innovators a monopoly for a restricted period of time. This also applies to some, but not all, artistic originals.

An essential question is the extent to which artistic creativity depends on monetary incentives. Considerable empirical evidence indicates that intrinsic motivation is crucial for artists' personal creativity. Artists may be strongly interested in monetary income, but at least at the start of their careers—the period when they are generally most creative and innovative—they are primarily driven by intrinsic motivation, perhaps even by a strong drive to embark on artistic endeavours. Only at a later stage in an artist's life does monetary income beyond what is needed for subsistence seem to become more important or predominant.

5.4 What to Do?

The discussion suggests that the beneficial aspects of fakes are rather strong and the harmful effects rather weak. Copying is a response to demand from people who are otherwise unable to enjoy an original work of art. *Once produced*, the work should be offered at zero price to the public. The consumption of a copy produces utility, and should therefore not be curtailed or prohibited. Moreover, faking benefits the originator when it provides additional recognition and fame. The harmful effect of faking, raising uncertainty for prospective buyers, is reduced or even eliminated by the development of legal guarantees. Buying from reputable art dealers and auctioneers also reduces uncertainty.

Faking art has some harmful effects. A repressive approach that tolerates copying only with the explicit consent of the creator and in which all other reproductions are automatically considered forgeries imposes significant burdens on society. Two types of costs can be differentiated:

- Considerable energy and material resources are wasted in fighting over which artist should have the property right for the original, and who copied from whom. Another issue to be settled is how far the monopoly right should extend. If it is defined too extensively, artistic progress is hampered, because an artist must seek the approval of the owner of the property before he or she works in this direction. The flow of creative artistic activity is reduced.
- The repressive policy against copying produces its own costs for art lawyers and the judiciary. Copying tends to move underground. Organized crime is favoured.

A repressive policy against fakes makes little sense. The creator of an original piece of art should indeed be given an incentive to pursue his or her activity, but this incentive need not be given by granting a monopoly right. In the world of art, recognition plays a central role. The prospect of becoming famous is certainly a strong incentive to be creative. A good solution that balances the benefits and costs discussed would be to force every copier to explicitly acknowledge his or her sources of inspiration. It provides recognition for art creators, but no direct monetary payments are involved. The recognition received generates reputation and fame, which can then be transformed into higher monetary income by better job offers, popular publications, and well-paid talks. Once this acknowledgement has been made, the process of copying, imitating, faking, or forging may run its course: the distinction between these terms becomes immaterial.

The suggestion of “art quotations” remains valid in the digital age. It corresponds to the need to compensate the creator of an original work of art at the very beginning, because imitations simply cannot be prevented.

5.5 Conclusion

The economic approach to art and culture considers copies, reproductions, and fakes as providing utility for the consumers demanding, and paying, for them. However, significant costs are involved. On the demand side, uncertainty about art works is increased. This cost can at least partly be overcome by resorting to knowledgeable and reputable sellers of art. Legal rules also help to reduce prospective buyers’ uncertainty and possible losses.

On the supply side, creators of original pieces of art must be given an incentive to pursue their activities. Recognition plays a central role. The prospect of becoming famous is certainly a strong incentive to be creative. A good solution that balances the benefits and costs discussed would be to legally force copiers to explicitly acknowledge their sources of inspiration.

Related Literature

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