

Know your rights to jewelry design

by Sarah Feingold

Amateur and professional beadworkers and jewelry designers frequently ask me about the use of jewelry designs. I'm a practicing attorney, I studied metalsmithing in undergraduate and graduate school, and I've been making and selling jewelry for more than 15 years, but I still have to check my research when it comes to the ownership of jewelry designs and the rights to these designs and instructions.

Most of us read *Bead&Button* to learn jewelry-making techniques. We probably use the magazine for inspiration and to remake a piece of jewelry using the instructions. That's why the instructions are provided, after all. However, we may not consider that each design is owned by the designer whose name is in the article's byline.

In this article, I'll examine the rights of the jewelry designer – the individual who designs the original piece – and the rights of the beader – the individual who uses the instructions. I will also provide some background information on copyright law. It's important to keep in mind that the information in this article does not constitute legal advice. Always consult a licensed attorney in your area regarding specific legal issues.

United States copyright

Generally, when you create a design, take a photograph, or make an original piece of jewelry, you automatically own the copyright to your creative work. This is because United States copyright law protects “original works of authorship.” U.S. copyright law typically covers jewelry, designs, step-by-step instructions, and photographs.

You are not required to fill out a form to earn U.S. copyright protection. However, it is to your benefit to complete a U.S. copyright form and submit it to the government. If you register your work, you can better prove owner-

ship. Forms and additional information are available online at copyright.gov.

Regardless of whether you submit a form, U.S. copyright protection becomes attached to your design as soon as the work is “fixed.” This means that as soon as you put your design on a piece of paper or into the computer, or as soon as you make a piece of jewelry, your U.S. copyright rights become attached to the piece.

No copyright notice is necessary. In other words, your piece of jewelry or craft instructions are protected by copyright law even if you do not put a “©” or the word “copyright” on the jewelry or instructions.

The designer's rights

The designer is typically the holder of the U.S. copyright rights. Generally, the designer is the only person with the right to:

- 1) Reproduce the design and instructions
- 2) Claim rights to similar works based on the design
- 3) Distribute copies of the design's instructions
- 4) Sell copies of the design or instructions
- 5) Transfer ownership of the design or instructions
- 6) Display the design or the instructions publicly.

When the designer gives permission to *Bead&Button*, the designer transfers the rights to the instructions to the magazine but not the rights to the design. For example, the designer may grant *Bead&Button* permission to reproduce, make copies, sell, or distribute the magazine's rewritten or edited version of the instructions and accompanying photographs. Typically, the designer will still own the rights to the design of the jewelry and will continue to have the right to reproduce the

design, sell copies of the design, teach the design, and claim rights to similar works based on the design.

The beader's responsibilities

The beader may use the instructions to create a project for personal use or for a gift, but she may not make the project to be sold or make multiple copies of the instructions. This means that she can't sell the finished product to family or friends, at stores, on the Internet, at craft shows, or at jewelry parties. She is also prohibited from teaching the design or instructions. The beader cannot claim the design as her own by creating a similar piece based on the original. For example, she cannot change the project's colors or length of the piece and claim copyright to the instructions or the project.

Benefits for everyone

Whether you create designs, use instructions, or both, it is advisable to know your legal rights and responsibilities. If everyone follows the rules, designers will continue to feel comfortable sharing their designs with *Bead&Button*. Also, beaders will feel confident about using the instructions as they were intended. ●



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Photos by Stanley Feingold

