



IP ITeasers 061:

Art and appropriation

The comic-strip-like pictures of Roy Lichtenstein are well known and hang not only from the walls of students but adorn far more illustrious places, such as Yale University Art Gallery. It is equally well known that many of his works were based upon actual comic strips. However, the recent documentary WHAAM!BLAM! Roy Lichtenstein and the Art of Appropriation, directed by James L. Hussey, illustrated that in fact hundreds, not a handful, of his works were based very closely upon the labours of others. One such comic strip artist, Hy Eisman, was quoted as saying “It’s called stealing” when discussing the similarities of his *Private Secretary* comic and Lichtenstein’s *Girl in Window*. Other examples included the classic Blam based on Russ Heath’s All-American Men of War #89. The Professor of Art at the University of South Caroline, Bradford R Collins, is quoted as saying: “It’s not plagiarism. It’s appropriation. With plagiarism, you’re stealing somebody’s work and using it for the same purpose they did. If Lichtenstein made comic books out of it, that would be stealing. But appropriation means you’re taking something and reusing it for a very different purpose, taking something out of a comic book and making it into a painting. ... But artistically, it’s not plagiarism.” One copyright lawyer in the documentary (presumably US-based) argued that there was no infringement, because Lichtenstein had transformed the original works and so the derivatives were not exact copies. In the case of *Temple Island Collections v New English Teas* [2012] EWPC 1, [2012] FSR 9, 321 (the “Red Bus” case), it was held that a photoshopped picture of a red London double-decker bus crossing Westminster bridge, with the Houses of Parliament in the background infringed an original non-identical similar composition. The Lichtenstein works are arguably equally close to the originals – maybe “appropriation” is one of those words that means different things on different sides of the Pond?