

Information:

Drawer: Accounts Payable - Invoices
Vendor Number: 1596706
Vendor Name: Artists Rights Society Inc
Invoice Number: AR2INV1161
Invoice Date: 06/17/20
PO Number:
Check Number: E0080503
Check Amount: \$ 25.00
Check Date: 06/23/2020
Department ID: 11999
Reviewer Name:
Voucher Number: V0630424
Redaction Type: None
Document Type: AP Invoice-3 Way/Pre-Approved

Document Below

From: mcgowan@cod.edu
Sent: Thu Jun 18 09:27:39 CDT 2020
To: invoicing@cod.edu
CC:
Subject: Invoice ARSNY # 1161

Please process the attached. Thank you.

Ellen McGowan
Business Manager
McAninch Arts Center
College of DuPage
425 Fawell Boulevard
Glen Ellyn, IL 60137
Phone 630.942.3009
Fax 630.942.3002

EMPLOYEES

Welcome Molly!

Voucher

Voucher Number V0630424
Voucher Amount \$25.00
Vendor ID and/or Name 1596706 Artists Rights Society Inc

Voucher Status In Progress (Unfinished) AP Type IM Invoices < \$15,000
Voucher Date 06/17/20 Voucher Maintenance Date 06/17/20 Due Date 06/18/20
Invoice Number AR2INV1161 Invoice Date 06/17/20
Check/Transaction Number Paid Date

Created from Document

Item Description	Vendor Item	Quantity	Unit of Issue	Price	Extended Price	GL Distribution	Invoice Number	Tax Codes	Tax Info	Comments
Image Rights, MAC		1.000		25.0000	25.00	05-60-11999-5309004 Frida Kahlo Exhibit : Performing Arts Services	AR2INV1161			

Comments

Image Rights, MAC Building Banners
70 Licenses G20_KAHLO

Approval Date

Next Approval

APPROVED

By Ellen McGowan at 9:22 am, Jun 18, 2020

OK

AP VERIFIED
06/22/20 - ISABEL BARRIOS

Voucher # V0630424

ARTISTS RIGHTS SOCIETY

INVOICE/AUTHORIZATION

To : McAninch Arts Center at College of DuPage
425 Fawell Boulevard
Glen Ellyn, IL 60137

Attn: Molly Junokas
Email: junokasm@cod.edu
Phone: 630-942-3042

Invoice: AR2INV1161

P.O.:

Date: 06/17/2020

Federal ID: I3-3405268

Project: "Frida Kahlo: Timeless" Building Banners

Re: Artists rights permission; per your request

The grant of rights is contingent upon payment of fees. Please see last page for applicable laws.

As agent for Banco de México, ARS represents the rights and permissions interests of the estate of Frida Kahlo. The right to grant permission to reproduce the listed work and distribute it worldwide is held in the U.S. by ARS.

Granted: One-time, non-exclusive English language, North American distribution rights for up to 3 building banners displayed at the McAninch Arts Center at College of DuPage, from June 5, 2021 through Sept 6, 2021. Permission is contingent upon the agreement of the McAninch Arts Center to be responsible for archiving at the museum or destroying the banners on or before September 30, 2021. For the avoidance of doubt, destruction shall mean cut into small pieces, shredded, or otherwise permanently defaced beyond repair or recognition.

Frida Kahlo - © 2021 Banco de México Diego Rivera Frida Kahlo Museums Trust, Mexico, D.F. / Artists Rights Society (ARS), New York
Autorretrato con changuito, 1945

FAILURE TO INCLUDE THE COPYRIGHT CREDIT LINE WILL RESULT IN A PENALTY FEE.

NOTE: In the event that any additional uses of the ARS-licensed image(s) are planned (such as any online / ebook use, any front or back cover uses, any promotional / advertising uses, any reproductions in excess of the above-requested print run), additional permission must be obtained in advance from ARS. The image(s) may not be cropped or altered in any way, bled to the edges, guttered, wrapped around or overprinted.

CREDIT:

1	Museum banner / flag use	\$	25.00
Administration Fee, Artwork by Frida Kahlo			

APPROVED*By Ellen McGowan at 9:23 am, Jun 18, 2020*

TOTAL AMOUNT: \$ 25.00

05-60-11999-5309004

25.00

470 Licenses/Image Rights G20_KAHLO

All invoices are due within 30 days of receipt. Please make checks payable to Artists Rights Society.

ARS also accepts major credit cards and electronic bank transfers.

JPMorgan Chase Bank, N.A., 525 Broadway, New York, NY 10012-4411, Bank Routing (ABA) No: 021000021, Swift Code: CHASUS33, Account No: 830608766.

Please contact Keri Oldham (P) 1.212.420.9160, koldham@arsny.com, or <https://www.arsny.com/payment> for credit card payments.

65 BLEECKER STREET, 12th FL., NEW YORK, NEW YORK 10012. TEL. (212) 420-9160 FAX. (212) 420-9286 WEB. WWW.ARSNY.COM

LAW PERTAINING TO THE RIGHTS OF ARTISTS

EXCLUSIVE RIGHTS OF COPYRIGHT OWNERS

"The owner of a copyright under this title has the exclusive rights to do and to authorize any of the following:

- (1) To reproduce the copyrighted works in copies or phonorecords.
- (2) To prepare derivative works based upon the copyrighted work."
- (3) The 1976 Copyright Act, S. 106 (Title 17 U.S.C: 90 Stat. 2541 et seq. Public Law 94-553)

OWNERSHIP OF COPYRIGHT AS DISTINCT FROM OWNERSHIP OF MATERIAL OBJECT

"Ownership of a copyright, or of any of the exclusive rights under a copyright is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property-rights in any material object."

-The 1976 Copyright Act, S. 202

"The copyright is distinct from the property in the material object copyrighted, and the sale or conveyance, by gift or otherwise, of the material object shall not of itself constitute a transfer of the copyright, nor shall the assignment of the copyright constitute a transfer of the title to the material object." -The 1909 Copyright Act, S.27

"Whenever a work of fine art is sold or otherwise transferred by or on behalf of the artist who created it, or his heirs or personal representatives, the right of reproduction thereof is reserved to the grantor...unless such right is sooner expressly transferred by an instrument, note or memorandum in writing signed by the owner of the rights..." -1966 New York General Business law, S.224, Art. 12-E

COMMENTARY:

"Even if the museum owns a painting, bought at great expense, it does not hold the copyright in the painting unless it is specifically transferred by the artist. The museum may believe erroneously that ownership of the object includes ownership of the copyright and therefore the right to reproduce the work on a poster or postcard for sale in the museum shop. Many museums make this error...by failing to separate conceptually ownership of the copyright from ownership of the material object. But the museum, absent a specific grant, no more owns the copyright in the painting than if it were to acquire the copyright in a literary work by buying a paperback book at a bookstore.

- Copyright and the Art Museum, Berkowitz and Leafer, 8 Art & Law, 249 ff. (1984) Feldman, Weill & Biederman (Boston: Little Brown & Co.), 1986, vol.1 p. 132

INFRINGEMENT

"Anyone who violates any of the exclusive rights of the copyright owner as provided by section 106...is an infringer of the copyright."

-The 1976 Copyright Act, S. 501(a)

- (a) Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be punished as provided in section 2319 of title 18.
- (b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used in the manufacture of such infringing copies or phonorecords." -The 1976 Copyright Act, S. 506, ss.(a) & (b)

CASE LAW:

"Innocent intent, although relevant to questions of remedy, will not be a defense to actions for statutory copyright infringement."

-Beck v. Jewell La Salle Realty Co. 233 U.S. 191, 198 91930)

"Intention to infringe is not essential under the act." -Plymouth Music Co. v. Magnus Organ Corp., 456 F Supp 676 (S.D. N.Y. 1978)

THE BERNE CONVENTION FOR THE PROTECTION OF LITERARY AND ARTISTIC WORKS

"The protection of this Convention shall apply to: (a) authors who are nationals of one of the countries of the Union, for their works, whether published or not;" -Article 3, S.1

"The enjoyment and the exercise of these rights shall not be subject to any formality.." -Article 5, S.2

"Authors of literary and artistic works protected by this Convention shall have the exclusive rights of authorizing the reproduction of these works, in any manner or form." -Article 9, S.1

"This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection." -Article 18. S.1

"The Preceding provisions shall also apply in the case of new accessions to the Union..." -Article 18. S.4

THE UNIVERSAL COPYRIGHT CONVENTION

"This convention shall not in any way affect the provisions of the Berne Convention for Protection of Literary and Artistic Works or membership in the Union created by that Convention."

-Article XVII, S. 1

"The Universal Copyright Convention shall not be applicable to the relationships among countries of the Berne Union insofar as it relates to the protection of works having as their country of origin, within the meaning of the Berne Convention, a country of the International Union created by the said Convention," -Appendix Declaration relating to Article XVII, S. (b)

COPYRIGHT RESTORATION

-U.S. Copyright Code (Title 17) as amended by the Uruguay Rounds Agreement Act (URAA), S514, effective January 1, 1996.

104A. Copyright in restored works.

"(a) AUTOMATIC PROTECTION AND TERM.-

"(1) TERM.-

"(A) Copyright subsists in accordance with this section in restored works, and vests automatically on the date of restoration.

"(B) Any work in which copyright is restored under this section shall subsist for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.

"(b) OWNERSHIP OF RESTORED COPYRIGHT.- A restored work vests initially in the author or initial rightholder of the work as determined by the law of the source country of the work.

In the definitions section of the Act, the term *restored work* is defined in the following fashion:

"(6) the term 'restored work' means an original work of authorship that -

"(A) is protected under subsection (a);

"(B) is not in the public domain in its source country through expiration of the term of the protection.

"(C) is in the public domain in the United States due to-

"(1) noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, lack of proper notice, or failure to comply with any manufacturing requirements;:

STATE MORAL RIGHTS LAW

A number of U.S. States, including California, New York, and Massachusetts have enacted artists moral rights laws. A provision of the New York Act follows.

"...No person other than the artist or a person acting with the artist's consent shall knowingly display in a place accessible to the public or publish a work of fine art...or a reproduction thereof in an altered, defaced, or mutilated or modified form..."

-New York Arts and Cultural Affairs Law S. 14.03 (McKinney Supp. 1986)