

WORKS OF APPLIED ART

Gustavo Godoy is an Argentine well-known artist, whose reproductions of some of his paints are being shown at a station of Subway of Buenos Aires City, in the middle of its historical center.

Moeller IP Advisors, as a way of encouraging the world of culture and art, has provided free legal advice to Gustavo Godoy in order to register his works with the National Copyright Organism.

As you can see in the pictures below, Godoy has used for the reproductions of his works elements such as chairs, sofas and beds. What's more, he has painted pictures directly on some of these pieces of furniture. Those are works of applied art.

Decision No. 351 /1993 (Common Provisions on Copyright and Neighboring Rights) of the Andean Community, in its [Article 3](#), provides that: "work of applied art means an artistic creation with utilitarian functions or incorporated in a useful article, whether a work of handicraft or one produced on an industrial scale"

Berne Convention for the Protection of Literary and Artistic Works, includes the works of applied art in the merely illustrative list of the types of works (Article 2.1), but declares that "it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected." ([Article 2.7](#))

In Argentina, this type of works can be protected by these laws, as appropriate:

- a) Law 11.723 (Law on Legal Intellectual Property Regime): protects the works of art applied to the commerce or the industry that, apart from its industrial application, it can be valued as an art work. Ownership of intellectual works shall correspond to the authors of such works during their lifetime, and to their heirs or legal successors for 70 years starting from January 1 of the year following the author's death (Article 5); and for anonymous intellectual works belonging to institutions, corporations or legal persons, the ownership shall last for 50 years from the date of publication of those works (Article 8).
- b) Decree-Law No. 6673/93 (Law on Industrial Designs): protects industrial designs. It is considered an industrial design: shapes or appearances which, when incorporated in or applied to an industrial product, provide an ornamental nature, regardless of whether it is an artist's work or not (Article 3). The duration of protection granted by the present Decree shall be five (5) years from the date of deposit and may be extended for two consecutive periods of the same duration at the request of the owner (Article 7).

Author: Natalia Pennisi, Lawyer at Moeller IP Advisors, specialized in Copyright and Related Rights.

It should be noted what Decree-Law No. 6673 provides in its Article 28 about the overlap between these different types of protection: “Where an industrial design registered in accordance with the present Decree is also the subject of an application for deposit pursuant to Law No. 11.723, the author may not claim both simultaneously in the legal defense of his or her right”. That’s why, in cases of violations of their rights, authors of works of applied art must evaluate what type of protection will the better be in order to defend their interest.

Exhibition at Line A of Subway of Buenos Aires City



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