

ART & ADVOCACY



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CONTENTS

Federal Art Resale Royalty Inches Toward Reality { 1 }

The Pitfalls Concerning Copyrights that Every Estate Planning Professional Needs to Know When Representing Authors and Artists { 5 }

Art Law Events { 8 }

Federal Art Resale Royalty Inches Toward Reality

By Barry Werbin

In May 2012, a California federal court ruled that the California Resale Royalty Act (Cal. Code § 986) was unconstitutional under the Commerce Clause because it authorized one state to regulate commerce conducted in other states by requiring royalties to be paid to artists who are either U.S. citizens or California residents on sales of their art occurring in California or by sellers who are California residents.¹ That ruling is awaiting a decision on appeal from the Ninth Circuit (the appeal was argued in April 2014). The California statute, which was enacted in 1977, has been the only one in the country to provide artists with a right to recover royalties upon the subsequent resale of their original works, subject to certain conditions.

Regardless of the appeal's outcome, the decision has created a strong impetus for potential enactment of a federal resale royalty law (or *droit de suite*, as it is known in Europe) that would amend the U.S. Copyright Act. Under U.S. copyright law, once an original copyright-protected work of authorship is sold, the buyer and all subsequent purchasers are free to resell that work (but not any underlying copyright rights in the work) without any compensation to the original artist or author. This is known as the first sale doctrine, as codified in Section §109 of the Copyright Act. In other words, once the original artist/author transfers title, his or her rights to any further compensation are exhausted.

Historically, the concept of a resale royalty originated in France in 1920 as a reaction to negative publicity about starving artists, and is now well-entrenched throughout Europe as part of a bundle of "moral rights."² Yet it never has been part of U.S. copyright law. While the Berne Convention copyright treaty incorporated *droit de suite* rights in 1948, due to objections by several countries, the right was made optional and reciprocal. The U.S. became a member of the Berne Convention in 1989 without implementing that provision.

Even before the California decision, movement was underway at the federal level. In 2011, representative Jerrold Nadler (D-NY) introduced a *droit de suite* bill (H.R. 3688 - "Equity for Visual Artists Act of 2011") that would have required artists to be paid a 7% fixed royalty, but only for a sale by an auction house with collective sales of \$25 million or more in the prior year or for individual works of art selling for \$10,000 or more. Excluded from coverage, however, were any entities that "solely conduct the sale of visual art by the Internet." That bill died without attracting any co-sponsors.

On the heels of the 2012 California court decision, however, the issue got new legs when the Copyright Office solicited comments in late 2012 and held a roundtable hearing on April 23, 2013, to assess whether a resale royalty scheme should be added to the Copyright Act, so as to bring the U.S. in line with Europe. In Congress, Representative Nadler re-introduced a new resale royalty bill on February 26, 2014 (H.R. 4103 - "American

(story continues on page 2)





Federal Art Resale Royalty Inches Toward Reality (continued from page 1)

Royalties Too Act of 2014”), which significantly lowered the coverage thresholds from his failed 2011 bill, as discussed below.³

Copyright Office Proceedings and Report

The Copyright Office (the “Office”) had previously considered a possible resale royalty in 1992, but concluded that there was no need for such legislation because it was “not persuaded that sufficient economic and copyright policy justification exists to establish *droit de suite* in the United States.” The Office expressed two main concerns at that time: first, that implementing a resale royalty right “might be harmful to visual artists who lack a viable resale market because primary market prices might decline as a result of factoring in the future royalty;” and second, that a federal right might conflict with U.S. copyright law’s statutory first sale doctrine because “the notion of an encumbrance attaching to an object that has been freely purchased is antithetical to our tradition of free alienability of property.”⁴

Twenty years later, Congress asked the Office to solicit public comments about a resale royalty. In particular, the Office’s mandate was to “review how the current copyright legal system affects and supports visual artists; and how a federal resale royalty right for visual artists would affect current and future practices of groups or individuals involved in the creation, licensing, sale, exhibition, dissemination, and preservation of works of visual art.”⁵

Following its receipt of numerous comments from diverse stakeholders by December 2012,⁶ the Office held a roundtable hearing on April 23, 2013, concerning a possible federal resale royalty right.⁷ The issues raised at the hearing broke down into the following eight subcategories:

- (1) The changing legal landscape; (2) portability of the secondary art market; (3) effect on the primary art market and the incentive to create new works; (4) first sale and the free alienability of property; (5) visual artists and sales of works; (6) the Equity for Visual Artists Act (Rep. Nadler’s then-pending bill); (7) effect on museums; and (8) constitutional concerns.⁸

The Office then issued a detailed report on December 12, 2013 (the “Report”), in which the Register of Copyrights, Hon. Maria A. Pallante, made the following observations:

Visual artists typically do not share in the long-term financial success of their works because works of visual art are produced singularly and valued for their scarcity, unlike books, films, and songs, which are produced and distributed in multiple copies to consumers. Consequently, in many, if not most, instances only the initial sale of a work of visual art inures to the benefit of the artist and it is collectors and other purchasers who reap any increase in that work’s value over time. Today more than seventy foreign countries – twice as many as in 1992 – have

enacted a resale royalty provision of some sort to address this perceived inequity.

Concluding there was “no evidence to conclusively establish that [establishing resale royalties] would harm the U.S. visual market,” the Report made 10 legislative recommendations, most of which are incorporated in Rep. Nadler’s 2014 bill and supported “congressional consideration of a resale royalty right, or *droit de suite*.”⁹

With respect to the market concerns it had voiced in 1992, the 2012 Report made a number of observations:

- The “value of the global art market appears to have increased” and the market has undergone fundamental changes,” citing the explosion of the Chinese art market.
- “The art market has seen an increase in the number of dealers opting to sell works from their homes or offices and at centralized events, such as art fairs,” most of which occur outside the U.S., a “trend [that] suggests that the art world is becoming less an exclusive club and more of a general market.”
- “The Internet may be enhancing these new sales models by providing an efficient and inexpensive means to communicate with buyers, regardless of geographic location.... [O]nline auction and market websites, such as eBay.com and Amazon.com, now include works of fine art among their items for sale.”
- “The emergence of various auction price databases, indexes, and news and analytics resources has made the art market somewhat more transparent, particularly in the last twenty years as art increasingly has become an appealing addition to diverse investment portfolios and as private equity art funds have evolved.” Nevertheless, 60% of all art sales are by private auction, gallery, dealer, or consultant sales, which maintain the confidentiality of prices.
- While public auctions offer more transparency, they “conceal or closely guard information about buyers, sellers, valuations, and prices,” although sale prices can be ascertained.
- There is an overall lack of regulation of U.S. art markets.

In support of a resale royalty, the Report emphasized that unlike authors of other types of creative works, visual artists typically do not enjoy the full benefits of the exclusive rights granted to copyright owners, noting that reproduction and similar rights generate only a small fraction of a typical fine artist’s income.

On the other hand, opponents of resale royalties argue that initial sales of art can generate much higher revenues than other types of works; reproduction rights may be quite valuable if an artist is in demand; the Internet provides new outlets for artists; and it is not the role of the Copyright Act to insure market and economic parity among authors. The Report itself was inconclusive on this last point,



noting that “there is insufficient evidence to conclude that a resale royalty is an effective, much less optimal, means of incentivizing such creativity.”

cautious on this key point, noting that “[i]t does appear that most of the direct benefits created by resale royalty schemes inure to artists at the higher end of the income spectrum.”



The “American Royalties Too Act of 2014,” or “ART,” is currently in Congress.

Opposing comments by Christie’s and Sotheby’s have emphasized that *droit de suite* is inconsistent with the first sale doctrine as well as U.S. copyright law generally, which is based largely on economics, in contrast to the European model that focuses on an extension of the author’s personality. Enactment of a resale royalty, they say, would upset the Copyright Act’s balance between incentivizing creation of new works and the public interest in accessing and using works “by likely reducing the prices paid to artists in the primary market for their works... while providing artists with little or no additional incentive to create.”

While the Office acknowledges the “constitutional mandate to maintain and foster incentives for continued creativity,” supporters of resale royalties argue that providing a post-sale royalty will incentivize artists to create more. Yet the Report is

Opponents agree, and emphasize that “because only a tiny percentage of artworks are ever resold, the vast majority of artists would gain nothing from a resale royalty, which would instead provide a new stream of revenue to already very successful artists.”¹⁰

Opponents also argue that a resale royalty will discourage buyers from purchasing works in the primary market because buyers will demand reduced first sale prices or artists will waive their right in exchange for higher initial prices. The Report responds that such concerns “may be overblown, as many buyers in the primary market are motivated by factors other than the prospect of future profit,” also noting that, based on the European experience, there is “little empirical evidence that a resale royalty has actually harmed primary art markets when applied in practice.”



Upcoming Events: What is the ART Act?

Herrick is pleased to be sponsoring an evening event on September 23, 2014, devoted to an examination of the American Royalties Too (“ART”) Act. Rep. Jerrold Nadler, the author of ART and ranking Democratic Member of the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet, will explain its features and answer questions from the audience.

With respect to the secondary art market, which a resale royalty would most directly impact, proponents argue that the royalty would encourage artists to be more prolific and help expand secondary markets, and reciprocity with foreign resale royalty schemes would produce new foreign revenue streams for American artists. They also argue that associated transactional costs would be minimal and no different from current auction administrative fees, such as buyers’ premiums, which provide no benefit for the artist.

Opponents argue that only a small number of artists would benefit from resale royalties, thus creating disproportionate administrative and enforcement costs. They also claim that a resale royalty would dampen enthusiasm for resales, thereby depressing the secondary market in its entirety. The Report notes that while available quantitative information can be interpreted in various ways, “there is no conclusive proof that the U.K. or EU markets have suffered (or, for that matter, benefitted), directly or indirectly, from the resale royalty.”

Opponents further raise the specter of the secondary market fleeing from the U.S. to countries like China and Switzerland that do not have a resale royalty scheme. The Report again concludes there is insufficient empirical evidence from Europe to support or reject this notion, noting that the “secondary art market is a complex ecosystem, with many correlating and confounding variables that affect market transactions.” In particular, the Report cites a lack “of any evidence that the growth in popularity of art fairs, private sales, and other nontraditional venues for art sales is the result, or a byproduct, of the spread of resale royalty schemes around the world.”

In the Report’s conclusions, the Office finds no hard evidence to “support the contention that adoption of a resale royalty right would cause substantial harm to the U.S. art market.” But with respect to the issue of a likely benefit to U.S. artists, “the evidence is less obvious...Accordingly, while the Copyright Office finds no significant legal or policy impediments to adoption of a U.S. resale royalty, and indeed supports consideration of a resale royalty right as one option to address the historic

imbalance in the treatment of visual artists, it is less persuaded that such legislation represents the best or only solution.” Other suggested options include voluntary initiatives and establishing best practices among stakeholders in the visual art community.

Pending Legislation

Rep. Nadler’s current bill (and the companion Senate bill), the “American Royalties Too Act of 2014,” or “ART,” is much broader in scope than his 2011 bill.¹¹ It would apply to any auction entity with only \$1 million or more of total sales in the prior year and to individual works of art (including photographs) selling at auction for \$5,000 or more. Rather than a fixed royalty, payment would be required based on the lesser of 5% of the purchase price or \$35,000 (subject to cost-of-living adjustments). Auction entities would make payments to a visual artist’s copyright-collecting society, which would be required, at least four times each year, to distribute the appropriate royalties (minus administrative expenses) to authors or successor copyright owners. The bill would cover artists who (i) are citizens of or domiciled either in the U.S. or a country that provides resale royalty rights; or (ii) have first created the work in the U.S. or a country that provides such royalty rights.

The bill would authorize the Office to further assess whether coverage should be expanded to cover non-auction entities, such as galleries, dealers, and other professionals involved in the sale of visual arts. At last count, there were 15 co-sponsors of the bill, all Democrats. To put teeth into enforcement, the bill would amend the Copyright Act to establish an infringement offense for the failure to pay the royalty by imposing statutory damages and liability for the full royalty. The sale, assignment, or waiver of the right to collect the royalty would be prohibited, subject to exceptions for works made-for-hire and transfers of copyright ownership.

A further Congressional hearing occurred on July 15, 2014, at which time it was reported that the Chairman of the House



committee considering the legislation, Republican Howard Coble, said he was “not uncomfortable with the concept of a resale royalty.”¹²

Prospects of Passage

With the Office encouraging Congressional examination of the resale royalty issue and enactment of some form of relief for artists, and Rep. Nadler’s bill having garnered multiple co-sponsors, the prospect for resale royalty legislation has real potential. If the Nadler and Senate bills don’t reach a final vote by the time the current Congress ends at year-end, they likely will be reintroduced. Yet strong opposition exists. Even the Office observed in its Report that more evidence is needed on certain key issues. That will take time, more hearings, and heavy lobbying by interest groups as any resale royalty will be a sea change for the U.S. The ball is rolling, but we don’t know where it will stop. ■

- 1 *Estate of Graham v. Sotheby’s Inc.*, 860 F. Supp. 2d 1117 (C.D. Cal. 2012). The issue of Copyright Act preemption of the California statute under the first sale doctrine also has been raised on the appeal.
- 2 The European Union (“EU”) harmonized *droit de suite* national laws in 2001 under Directive 2001/84/EC, which generally required Member States to adopt national implementing legislation by 2006, but allowed Member States that had not previously enacted a resale right to limit application of the right to works of living artists until 2010, or, upon notice from the Member State to the European Commission, for an additional two years, with full implementation required by all Member States by January 1, 2012. The Directive caps the royalty to be paid at €12,500, regardless of the resale price, based on a sliding royalty scale.
- 3 On March 20, 2014, Rep. Nadler’s bill was referred to the Subcommittee on Courts, Intellectual Property, and the Internet.
- 4 See Report, p. 8. The full Report can be accessed at <http://www.copyright.gov/docs/resaleroyalty/usco-resaleroyalty.pdf>.
- 5 Report, Appendix “A” (Federal Register Notice).
- 6 Comments were submitted by both U.S. and foreign interest groups, such as The Confédération Internationale des Négociants en Œuvres d’Art (CINOA), Artists Rights Society (ARS), American Society of Media Photographers (ASMP), New York University Art Law Society and California Lawyers for the Arts, Sotheby’s, Inc., Christie’s Inc., and eBay, Inc. All comments can be accessed at <http://www.copyright.gov/docs/resaleroyalty/comments/77f58175/>.
- 7 See <http://www.copyright.gov/fedreg/2013/78fr19326.pdf>.
- 8 *Id.*
- 9 Report, p. 2.
- 10 *Comments of Sotheby’s, Inc. and Christie’s Inc. in Response to Copyright Office’s Notice of Inquiry re Resale Royalty Right* (available at <http://goo.gl/hJuX5b>).
- 11 The same day that Rep. Nadler introduced his ART bill, an “American Royalties Too Act” also was introduced in the Senate by Senator Tammy Baldwin (D-WI).
- 12 See <http://www.theartnewspaper.com/articles/Artist-resale-rights-gain-support-in-US-Congress/33303>.

The Pitfalls Concerning Copyrights that Every Estate Planning Professional Needs to Know When Representing Authors and Artists

By Michelle Bergeron Spell and Jodi C. Lipka

A prerequisite for the estate planning professional is a working knowledge of (if not an expertise in) the Internal Revenue Code of 1986, as amended. For those professionals tasked with estate planning for authors and artists, however, a working knowledge of a different federal statute – the 1976 Copyright Act, as amended, which became effective on January 1, 1978 (the “1976 Act”) – is also of great importance. If an estate planning professional does not have a working knowledge of the 1976 Act, the consequences to his or her client may be detrimental and could wreak havoc with the intended disposition of the copyrights associated with the client’s creative works.

The 1976 Act creates three potential pitfalls that an estate planning professional must consider when disposing of a client’s creative works and the copyrights associated therewith, both during the client’s lifetime and upon his or her death.

A Gift or Bequest of a Creative Work Does Not Transfer the Copyright

First, in order to transfer the creative work and the copyright during the client’s lifetime or upon death, the client must specifically state that the copyright is being transferred with the creative work. A gift or bequest of a creative work, such as a painting, without a corresponding gift or bequest of the copyright will only pass the creative work to the donee or beneficiary. For example, if the client bequeaths a painting to a

friend and bequeaths the residue of his or her estate to his children, the friend will receive the painting and the copyright will pass as part of the residue of the estate to the client’s children. If the client intends to bequeath the copyright with the painting, the will must specifically bequeath the copyright to the friend.

Copyright Termination Rights Devolve Under Forced Heirship

Second, the estate planning professional must understand the uncertainty associated with transferring the client’s copyrights during the client’s lifetime or upon the client’s death, other than by the client’s will. The 1976 Act provides creators with the opportunity to exploit their “original works of authorship” by prohibiting others from profiting from the work for a limited period of time without consent.¹ During that limited period of time, the creator can sell, lease, license, and gift the right to reproduce, distribute, perform, display, and prepare derivative works as one undivided “bundle of rights,” or more commonly as individual intangible rights. The ability to separate rights from the bundle and transfer them independently enables the creator to control the work’s exposure and profit as he or she may desire.

But what if, as may be the case with new talent, the highest bidders are not interested when the creator first seeks to



The Pitfalls Concerning Copyrights in Estate Planning *(continued from page 5)*

benefit from his or her work? The 1909 Copyright Act, as amended (the "1909" Act), sought to provide authors and artists with a second opportunity to profit from an already exploited copyright through a right of renewal for that very purpose. In 1943, however, the United States Supreme Court upheld the validity of assignments of renewal rights prior to their vesting under the 1909 Act,² thereby depriving creators of a second opportunity where they had assigned their renewal rights under the terms of an initial transfer. In response to the Court's holding, the 1976 Act dispensed with the right of renewal, and for copyrights created after January 1, 1978, created a statutory right of termination.

As explained in the legislative history of the 1976 Act, Congress believed that the renewal right should be substituted with a different provision to protect creators who entered into "unremunerative transfers."³ Citing the unequal bargaining positions of creators that result from their inability to predict the value of a copyrighted work before it



has been exploited, Congress proposed Section 203 of the 1976 Act, which provides for a termination right over any transfer of a copyright as defined in Section 101 of the Act or any nonexclusive license (hereinafter collectively referred to as a "transfer"), other than a transfer by the creator's will.⁴ Section 203, as it appears in the 1976 Act, provides that in the case of "any work other than a work made for hire, the exclusive or nonexclusive transfer or license of a copyright or of any right under a copyright, executed by the author on or after January 1, 1978, other than by will, is subject to termination." The remainder of Section 203 dictates the specific requirements for termination. Unlike the automatic renewal right, the 1976 Act's termination right requires affirmative action on the part of the creator and cannot be waived or contracted away.

The year 2013 marked the first opportunity for authors and artists to recapture rights they transferred or licensed away on or after January 1, 1978. Assuming that the creator of the work is still alive, any exclusive or nonexclusive transfer may be terminated during the five-year period beginning 35 years from the date of the transfer.⁵ Notice of the termination right must be provided no more than 10 years, but not less than two years, prior to the effective date of the termination.

By way of illustration, assume your client sold a copyright to a song to a record label in September of 1978 for a small royalty. Further assume that your client subsequently found fame as a world-renowned performer. Over time, the record label realized substantial profits without any similar compensation being paid to your client. Under the terms of Section 203(a)(3)-(4), during the five-year period from September 2013 to September 2018, your client has the right to terminate the sale by serving written notice on the record label anywhere from 10 to two years before the effective date of the termination and recording a copy of the notice with the United States Copyright Office.⁶

By following the procedures of Section 203(a)(3)-(4), the copyright will then revert back to your client under Section 203(b) upon the effective date of the termination.

Under Section 203(a)(2), if a creator dies before the commencement of the termination period, the termination right vests in a surviving spouse and/or children and grandchildren.⁷ This

termination right is an automatic right of inheritance and cannot be altered by the client's will, testamentary substitute, or other agreement. In these circumstances, the creator's spouse and/or children and grandchildren have the ability to terminate the creator's post-1978 transfers, with the caveat that any bequest under the deceased creator's will cannot be terminated. In situations where more than one person owns the termination right, only 50 percent of those persons need to agree in order to terminate a creator's lifetime transfer by complying with the same procedures outlined in Section 203(a)(3)-(4). Notwithstanding action by as few as 50 percent of the owners of the right, the terminated interest vests in *all* of the holders of the termination right upon the effective date of the termination.

In light of the federal copyright law's preference for promoting the wishes of the author or artist, from an estate planning perspective it is particularly frustrating that the 1976 Act creates an automatic right of inheritance in the creator's surviving spouse and/or children and grandchildren, who may not even be the intended beneficiaries of the creator's estate. This frustration becomes more pronounced once one realizes that the termination right appears to apply to any transfer made during



the creator's lifetime, including transfers to management companies, lifetime gifts, and charitable donations.⁸

Consider the possibility that the creator's surviving spouse and/or children and grandchildren (the holders of the termina-

...the 1976 Act creates an automatic right of inheritance in the creator's surviving spouse and/or children and grandchildren, who may not even be the intended beneficiaries of the creator's estate.

tion right) are not the named beneficiaries of the creator's assets under his or her will. Assume that your client is survived only by children, but executes a will leaving all assets of the estate to a significant other, thereby disinheriting the children under the terms of the will. If your client dies before the termination right vests under the 1976 Act, the surviving children will have the opportunity to terminate the sale of the copyright, take possession of it, and exploit it for their personal gain. The right of termination does not (and cannot) pass under the client's will to the significant other. In this case, the client's children have the opportunity to frustrate your client's testamentary plan and circumvent their disinheritance.

Transfers of Copyrights Other Than Those Made by Will May Be Revoked

The third consideration for estate planning professionals is that Section 203 not only overlooks the fact that a creator's surviving spouse and/or children and grandchildren might be different persons than the beneficiaries of a will, but its sole carve out for transfers made pursuant to a will presents an opportunity for a creator's surviving spouse and/or children and grandchildren to undo lifetime estate planning transfers if they do not inure to their benefit. Particularly in states where the probate process is lengthy and complex (e.g., New York, California, and Florida), estate planners often utilize testamentary substitutes, such as revocable trusts, in lieu of traditional wills that would trigger probate. For example, the surviving spouse

and/or children and grandchildren who are *not* the beneficiaries of the creator's revocable trust can frustrate the creator's testamentary intent by terminating an *inter vivos* transfer of a copyright after the creator's death. Plainly, this interferes not only with the creator's wishes regarding to whom the copyright devolves, but also with the desire to avoid probate. This gap in the statute, which allows for the unraveling of an estate plan merely because the creator elected to utilize a revocable trust over a will, highlights the need for revisions to Section 203 of the 1976 Act to except transfers to testamentary substitutes from the right of termination by a creator's surviving spouse, children, and grandchildren. Indeed, if a creator chooses to transfer copyrights to a limited liability company for management purposes during the creator's lifetime, that too can be undone by a surviving spouse and/or children and grandchildren if they do not receive the limited liability company interests upon the creator's death. As with a transfer to a trust, Section 203 grants the family the right to terminate the copyrights owned by the limited liability company during the termination period.

As you can see, estate planning professionals must have a working knowledge of the 1976 Act in order to inform their clients of these and other potential pitfalls that are unique to authors and artists and then advise them of the best means of disposing of their copyrights. ■

- 1 The 1976 Act provides that works created on or after January 1, 1978, which are not works made for hire, are extended copyright protection for a period of the author's life plus 70 years. Works created prior to January 1, 1978, are outside the scope of this article.
- 2 See *Fred Fisher Music Co. v. W. Witmark & Sons*, 318 U.S. 643 (1943).
- 3 See H.R. Rep. 1476, 94th Cong., 2d Sess. (1976).
- 4 *Id.* at pages 124-125.
- 5 If the grant covers the right of publication of the work, the period begins at the end of 35 years from the date of publication of the work under the grant or at the end of 40 years from the date of execution of the grant, whichever term ends earlier. See 17 U.S.C. §203(a)(3).
- 6 In order to effectuate a termination in September 2013, notice would have been required to have been served in September 2011.
- 7 The creator's surviving spouse will own 100 percent of the termination right unless the creator has descendants then living. In such case, the spouse will own 50 percent of the termination right and the creator's descendants, *per stirpes*, will own the other 50 percent. If the creator dies without a spouse or descendants, the termination right may be exercised by the executor, administrator, personal representative, or trustee of the creator's estate.
- 8 We anticipate that the blanket application of the termination right to common lifetime estate planning transfers will be challenged by litigation as more terminations are effectuated under the 1976 Act.





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Art Law Events

Upcoming Events Involving Herrick's Art Law Group

September 23, 2014

Herrick, Feinstein LLP will host an evening with Congressman Jerrold Nadler (D-NY), the author of the American Royalties Too ("ART") Act, and Democratic Member of the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet. Congressman Nadler will explain the features of the proposed legislation, which would provide resale royalties to visual artists, and answer questions from the audience.

October 1, 2014

Howard Spiegler will present his annual lecture on restitution developments at Christie's Education in New York City.

October 3, 2014

Lawrence Kaye will attend the legal affairs committee meeting of the International Council of Museums in London, England.

October 7, 2014

Howard Spiegler will present a talk entitled "Rewriting History - The Recovery of Nazi Looted Art" for the Rabbi Leo M. Franklin Archives and The Mary Einstein Shapero Memorial Lecture at Temple Beth El in Bloomfield Hills, New Jersey.

October 14, 2014

Frank Lord will moderate the program hosted by Volunteer Lawyers for the Arts' entitled "Collateral Damage: Unintended Consequences of Fish and Wildlife Service Ivory Ban" at Herrick, Feinstein's offices in New York City.

October 21, 2014

Lawrence Kaye will discuss risks and liabilities connected to art exhibitions and loans, protection from attachment, security issues, transport, damage, and theft at a conference entitled the "ABCs for Traveling Picassos...All You Need to Know to Trade or Loan Art Across the Borders" at the International Bar Association Conference in Tokyo, Japan.

October 28, 2014

Frank Lord will moderate and Stephen Brodie and Darlene Fairman will speak on a panel entitled "Issues for Collectors and Their Advisors" hosted by Herrick, Feinstein at its New York office. Representatives from Christie's and Citibank's Art Advisory and Finance will also be on the panel.

October 30-31, 2014

Howard Spiegler will present "Protecting Creativity: The Law of Art, Fashion and Design" at the Annual Congress of the Union Internationale des Avocats (UIA) in Florence, Italy. Lawrence Kaye and Mari-Claudia Jimenez will also speak on the ways in which the laws of various countries interact to protect creative expression in the closely-related fields of art, fashion and design. Topics will include the recovery of lost and stolen cultural property, the protection of works of artistic craftsmanship and industrially exploited and functional designs. Stephen Brodie will speak on the subject of title risk and art investment funds on a separate UIA panel entitled "Eligible Assets for Investment: the Constant Development of Investment Schemes."

November 8, 2014

Nicholas Montorio will speak on a panel entitled "IRS: Essentials of Estate Appraisals" at the National Conference hosted by the Appraisers Association at the New York Athletic Club.

November 9-11, 2014

Darlene Fairman will attend the conference "Dispossession: Plundering German Jewry, 1933-1945 and Beyond" at Boston University.

November 17, 2014

Howard Spiegler will present his annual lecture on restitution developments to the Art Law class at NYU School of Law in New York City.

November 20, 2014

Howard Spiegler will lecture on Nazi-looted art at Congregation Schaarai Zedek in Tampa, Florida.

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