

AUTHENTICATION IN ART

Developments of the Authentication in Art Mediation Board

We would like to announce some recent developments with regard to the AiA's Mediation Board (MB) setup. As announced earlier, the MB will provide an alternative to the endless and fruitless battling over authenticity in courts.

When lawyers become involved in authentication disputes, it usually results in parties being deadlocked and unable to reach an agreement. The lawyers, whether or not specialized in the art law issues at stake, tend to focus on legal strategies and expensive trial and pre-trial tactics. Moreover, they find it difficult to understand the use of evidence brought forth by art experts. However, a judge will only be able to judge the experts' findings on the painting instead of including the painting in dispute itself, which inherently makes it hard to reach a verdict. Consequently, all sides are losing and stepping over the core of the case.

A good way to prevent and overcome such an impasse is an early investigation to diagnose the causes of this impasse by confidentially talking to the parties, their advisers and experts. Alternative Dispute Resolution (ADR), mediation in particular, offers just that: lawyers and their clients can be open and frank with the mediator without the normal fear of having adversaries gain advantage by disclosures.

Additionally, ADR procedures allow the parties to choose the expert, mediator or arbitrator with the necessary expertise of the art law issues at stake *and* the parties (private owners and business owners) have the option of self-representation or being represented by an attorney or other advocate/expert. This offers the benefits of greatly reduced costs and familiarity with the facts of the case. Furthermore, ADR procedures eliminate the time-consuming and expensive trial and pre-trial tactics, so attorneys or advocates can really focus on effectively advocating on the client's behalf.

One of the other biggest advantages to resolving commercial disputes through ADR is the preservation of business relationships, a great stake in the art industry. Although it might result in final legal decisions like in court (arbitration), the nature of ADR is less confrontational, less likely to trigger issues of pride and ego and more conducive to enabling the parties to work together.

In short, authentication disputes distinguish themselves by their highly specific subject matter, where both legal and non-legal issues are intertwined. This requires an understanding of every aspect of the dispute which court litigation simply cannot offer. Court litigation, being a public process, usually concludes with a winning and a losing party, often affecting professional relationships in the art market and not taking into account all the interests and issues at stake.

AiA will provide multiple dispute resolution procedures such as arbitration, mediation and expert determination enabling them to resolve conflicts involving authenticity issues in a cost- and time-efficient manner. Since authentication disputes are complex by their very nature, it is important not to treat these methods as rigid regimes, but as complementary procedures. AiA is thus evolving to act as a facilitator of customized ADR experiences, responding to the needs of the international art industry today.

All arbitrators, experts and mediators involved will be selected from an interdisciplinary field of art-based experts and legal experts with experience in the art world and authentication of art. It will be a mix of specialists from universities, research centers and market players, depending on the needs of each case. All together, the AiA network creates over 4500 connections in the professional field, together with a list of independent experts, mediators and arbitrators who will handle the actual cases.

We are very pleased to announce that AiA will handle a test case by the beginning of 2015, which might turn authentication dispute resolution upside down. As these parties are battling over authenticity in court for almost a decade, stakes are very high. Handing their conflict over to AiA gives them a chance to look into the dispute in an entirely different way. All unique characteristics of this case will be assessed by AiA to identify the triggers causing the deadlocked conflict. Subsequently, AiA will design a customized dispute resolution process to avoid impasses and choose an effective way of resolving this particular dispute in a timely and cost-effective manner. Please keep following our social media and website for all developments.

With the Mediation Board, the Authentication in Art Foundation will respond to the growing demand for a holistic approach to authentication dispute resolution, providing a voluntary, confidential, customized ADR experience

firmly rooted in the art industry.

The AiA team: Milko den Leeuw - Neeltje Romke de Vries - Oliver Spapens

Announcement news-service

We would like to draw your attention to the following concerning our news-service.

The articles, on our newspaper and the newsfeed on social media, are gathered by Authentication in Art News for further spread of information and awareness about the topics related to Authenticity. The views in these articles do not necessarily coincide with the views of the AiA foundation. AiA urges everyone to read these articles critically seeing that they are mostly written by professional journalist and rarely by experts from the art field such as, but not limited too: art historians, curators, conservators, and chemist. Nevertheless these articles do provide a good insight in the art industry.