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Fake and Forged Works: A Conversation with Art Lawyer Jean-Jacques Neuer

BY JEROME NEUTRES | JANUARY 18, 2019

Jean-Jacques Neuer is based in Paris but works worldwide, from New York to Beijing, to defend artists or their legacies in a market that's become the source of many conflicts, forgeries, and other frauds. Neuer is the official counsel of the Picasso Administration (a model organization he conceived), as well as the legal representative of many estates, including the Giacometti Foundation, Brancusi, Klein and Arman. In 1996, the former director of the Met, Thomas Hoving, warned in his essay "The Hunt for Big-Time Art Fakes" that the art world had turned into "a new, highly active, unprincipled one of art fakery," noting the 40 fake masterpieces discovered in his museum collection, as well as many other examples of art forgeries. Since then, one can't keep up with scandals like the famous case of Wolfgang Beltracchi, a massive producer of fake masterpieces; or in France the case of the fake royal armchairs bought by the Versailles national museum; or in the United States the 80 counterfeited [Keith](#)

[Haring](#) paintings exhibited and seized in Miami in 2013; or the 70 fakes sold by the Knoedler & Company gallery in NY in 2016, and so on. It seems every field of the arts is concerned, from antiquities to Contemporary art. In fact, in the first century BC, the Greek art dealer Pasiteles was already selling counterfeit Greek antiquities to Romans. Is the business of fakes simply part of art history?

In an explosive column in the French Newspaper La Croix in 2016, you declared that based on your experience, fake works could represent some 30 percent of the art market. What is the situation today? Why does it seem that art has become a prime target for organized crime?

Counterfeiting dollar bills is a much riskier business than making fakes, forgeries or deliberate misattributions in the arts. On top of that, it doesn't necessarily pay more. Most of the art fake cases are never solved, and I don't know many fakers in jail. Even Beltracchi, who confessed to having painted 300 fake masterpieces from 100 different painters, was only sentenced to six years in prison. Crime, like other businesses, demonstrates a keen interest in diversification. Art forgery is less risky than other types of crime because it is always complicated to totally prove the artist's provenance, and also because the courts and judges often don't know the art field well. So, don't expect the situation to get better anytime soon...

What is the difference between a fake, a forgery and simple fraud?

Fakes and forgeries have an overlapping meaning. But forgeries imply an intentional purpose to deceive, while fakes are not necessarily intended to defraud people. However, a fake can be illegal without being a forgery. This is the case when a painting is intentionally misattributed (it has not been forged but it is intentionally wrongly labelled). "Fraud" is a wider concept that refers to fraudulent practices. Like for example the case of the two British fakers John Drewe and John Myatt in the UK in the 1980s; Drewe stuffed the archives of Tate Gallery and V&A with fake documents to corroborate Myatt's forged paintings.

Georgina Adam's recent book "Dark Side of the Boom: The Excesses of the Art Market in the XXI century" has compiled many irregularities in this field. Isn't she exaggerating?

Is the art market so different from any business? Do you think that the art market also needs more legal regulation? She absolutely is not. Crime follows money, so it is not very different from other big businesses. Much more than legal regulation, I think that the real issue is an awareness of what is at stake, i.e. the importance of the art market and of course expertise.

What are the ways you would suggest fighting against the fake business? You recommend reinforcing the artist's (or the estate's) control over the works...

Art deals circulate at the speed of the Internet. Meanwhile the legal procedures follow a path inherited from the 19th century. In real life there are very few chances that the tortoise wins the race against the hare. On top of that the fraudster/hare is international and the justice/tortoise is hopelessly national. The only way to control the market is through the market's tools. I recommend structuring strong and organized estates recognized as authorities in authenticating the works. You cannot of course control the fakes that spread and flourish over the Internet but you can at least have a look at the top-tier market (big auction houses and serious art galleries). You can also take the needs of the market into account, and when there are very few pieces by an artist and a strong demand, you can respond to that situation for example by casting limited editions of works. It is much healthier to have authentic posthumous casts than antemortem fakes. You are known as the lawyer of several big names such as Picasso, Brancusi, Giacometti, Klein, Arman...

You often say those names have become true "brands" today. Do you mean it is time to think of art and artists as a real industry?

There is a global movement of the financialization of the art market. Meanwhile artist's rights are limited to 50 to 70 years depending on the jurisdictions after

the artist's death. Furthermore, there are areas in the world, particularly in vibrant countries in Asia, that don't pay much attention to the copyright. When it comes to industrial assets, whether material or immaterial, it becomes a very different story. Hence, it can be interesting in terms of time and space to shift the artist's rights from the artistic field to industrial property, i.e. essentially brands.

Since 2000, the art market has grown some 360 percent, with sales reaching 60.7 billion in 2017, according to estimates from Artprice and the Art Basel organization. How do you see those figures evolving in the near future?

It is just the beginning. All over the world we're witnessing a striking phenomenon in the tremendous inflation of asset prices. Art is certainly no exception, on the contrary

Another important legal issue for the arts is the growing debate about the supposedly illegitimate works in museum collections, such as treasures of Asia and Africa coming from war campaigns or colonization. President Macron recently gave back 26 works from the French national collections to Benin. Do you think that governments should give back all or part of these "stolen" works?

The best way to make mistakes and to be wrong about this very touchy issue is to be dogmatic and/or to excessively simplify this problem. I consider museums to be our modern temples. They are sacred and belong to all mankind. It is not conceivable that museums only exhibit the artworks of the countries where they are located. On the other hand, we cannot overlook the fact that many artworks and even collections have been collected or built through unbelievable suffering: plunders, lootings during the darkest periods of history: colonialism, slavery etc. Furthermore, in our modern world there is a quest for meaning and an artwork is a compass that allows people to know who they are, where they come from and where they are heading to. We cannot despise or ignore the legitimate claims of these countries or these people. I think that there should be a case-by-

case analysis and a sensitive approach, which doesn't mean a naive one. It is an immense cultural territory that has to be cleared.

