

AUTHENTICATION IN ART



Milko den Leeuw of Authentication in Art interviewing Lawrence M. Shindell, Executive Chairman of ARIS Title Insurance Corporation and member of the Advisory Board of AiA.

Could you please give us an introduction of yourself and your work?

I am the chief executive of ARIS Title Insurance Corporation, which is headquartered in the United States, in New York, and is part of a large A.M. Best-rated 'A' international specialty insurance and reinsurance company, Argo Group International Holdings, Ltd., traded on the NASDAQ as AGII. ARIS writes a form of insurance that mitigates against the inherent legal ownership risks in the art industry. Because we are focused on asset and transactional risk for good faith stakeholders such as collectors, the trade, and museums (as well the banking and investment sectors which are now part of the art industry and the regulators for these trade sectors), we are interested in and support initiatives that address the second major risk to the art industry – faked, forged or inauthentic art. This factor, along with legal ownership, go to the heart of the economic value of art. The economic value of art combines with its cultural, philanthropic and educational values to drive and support the preservation of the world's artistic legacy. I am a lawyer by background, having been a prosecutor and then a trial attorney in private practice for many years in complex litigation representing and litigating against large corporations, before co-founding ARIS as an outgrowth actually of solving a problem for a client. Ironically perhaps, questions of ownership (title) and authenticity in today's art industry are, in many ways, ultimately legal questions.

Several years ago, as Authentication in Art organized its second Congress, ARIS became a standing corporate underwriter of AiA and you agreed to become both an Advisory Board Member and Chair of the AiA Art and Law Work Group. AiA of course has since grown and matured. What do you think AiA's role has become and should be in the future for the international art industry?

AiA has emerged to become, as it certainly should have become, the definitive global center of expertise on cultural heritage science on an institutionalized level for the art market. I use the term institutional because this means that AiA's voice and expertise is and it must be larger than that of any one member of the field. AiA's role is to harmonize individual scientific opinion and expertise into a consensus of authority because this is what the industry's stakeholders need. The importance of an organization investing to become and then serving as the industry voice on a subject matter which is presented as a consensus of authority is well-known, and there are many parallels to this in other industries. Consensus also does not imply knowledge that is static. Knowledge evolves. Many of the issues which AiA exists to help resolve become legal questions for courts to decide, so the institutional character of AiA as an authority is vital for courts and other tribunals and for the stakeholders of the art industry at large.

What do you think are or should become a few of the key initiatives of AiA to further its goals?

AiA is already doing many things in a broad leadership role. AiA started with holding Congresses and in time will develop library, white paper and other technical resources for the art industry's stakeholders. As many of our members know and as will be formally announced at the next Congress, AiA is organizing and soon will launch and operate an arbitration and mediation forum to decide authenticity disputes for the art industry internationally. This forum will be administered at The Hague, with government support, in conjunction with and under the rules of one of the world's leading arbitration organizations, the Netherlands Arbitration Institute ("NAI"), for arbitrations and mediations that the art market will be able to hold anywhere in the world. Arbitrators and mediators (judges and lawyers) (and art science experts who will serve as consultants to the arbitrators and mediators) will be drawn from around the world to hear and resolve authenticity disputes between parties. This process will be voluntary and will serve as an alternative to the formal court process. Arbitration and mediation are used throughout the world as more cost-effective and often more expert-based alternatives to courts in broad commercial dispute resolution.

Recall that one of the fundamental approaches of AiA in furthering its goals has been to help forensic scientists (cultural heritage scientists and conservation experts acting in a forensic capacity as opposed to when they are conserving an artwork) and connoisseurship experts to work together without area-of-discipline bias. The goal has been to create tools to pair forensic science and its ability to rule out, or to confirm as consistent with, the proposed attribution of an artwork based on materials analysis with the discipline of connoisseurship to enable this discipline to reach the ultimate positive conclusion (if the conclusion is correct in truth) that the disputed work of art is an autographic work by the attributed artist. AiA is in the process of creating tools that will help experts to address these questions in courts or in arbitration proceedings.

How does or can AiA's work move the needle for the entire art industry?

It will be important for AiA's supporters to keep in mind the value of a top down strategy. By this I mean, if AiA can create an environment through tools and resources that can help to address a dispute when the dispute reaches its last stop in its journey – court or arbitration – with more accuracy and authority, then the market will have greater confidence in the outcome and will rely on the outcome. Right now, for instance, it doesn't make much difference if a court says that an artwork is authentic when it resolves the immediate dispute between two parties, if the market still questions the authenticity of the object. AiA is in a unique position to set a neutral industry benchmark of expert scientific inquiry to help the market prevent authenticity questions from growing into a legal dispute. Precise and germane scientific inquiry will happen because everyone will know that the standard to test the inquiry has been engineered to meet the rigor of a court or arbitration proceeding. The more effective we can be in setting high standards for forensic interrogation with confidence, the less frequently genuine disputes will occur about the authenticity of artworks.

What do you think are the major risks to the market achieving the goal of better identification of faked and forged artworks and less incidence of these objects moving in the market?

Although the word "ecosystem" might seem a bit overused, the term accurately conveys both the opportunity and the challenge for the industry in solving the growing problem of faked and forged art objects. And as you know from ARIS's work in this arena, one must approach solving this problem through a two-pronged strategy. The first prong is to help the art industry to develop standards-based and high-technology-based means to permanently and safely mark art objects when they are made for future identification purposes. If this can only be done after the object is made and has entered the marketplace, then an object must be identified as an authentic object by the attributed artist through the cultural heritage science that AiA supports, so that for all future purposes the market knows which exact object goes with that identification, to the exclusion of all others (i.e., a fake copy). The second prong is to help the art industry to engage in ever improving forensic science to answer the question of authenticity and attribution after the artist is no longer with us. Because the issue of what other fields call manufacture-supply-distribution chain integrity is so complex, and because in the art world object-identification and integrity must be maintained for decades if not centuries for property that constantly moves, changes hands and undergoes other external events such as conservation, every stakeholder in the art industry ecosystem plays an important role. This means that individual stakeholders who innovate – leading researchers who create solutions that are part of a larger mosaic – must focus on their piece with enormous investment and expertise. In today's business world, we call these "deep verticals" as opposed to past practices of a wide footprint with many shallow verticals. There is a natural tendency for innovators, because of investment pressures for scale, to go too wide and too shallow, even though this is at odds with the increasing need for deep subject matter expertise. Innovators in the forensic art analysis fields, whether focused on information-based solutions or more core-technology-based solutions which often drive information, to make a difference will need to avoid the tendency to Balkanize with other stakeholders and attempt to go wide and shallow and instead go narrow and deep. If the market can assemble the right pieces to the solution incrementally, then I think we will see effective solutions at reducing cost, around which the market will rally, and then the cures the market needs will take hold. This strategy will be needed for both prospective object-identification technology solutions and retrospective forensic analysis protocols and resources.

Lawrence, thank you so much for your time and patience in answering questions for AiA.
Oliver Spapens, thank you for your assistance.

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