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War declared over lucrative Modigliani 'monopoly' as Wildenstein Plattner Institute fights back at Marc Restellini

Institute is claiming copyright ownership and right to publish expert's research, alongside share of profits from Institut Restellini which it claims charges €30,000 per inquiry

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The French art historian Marc Restellini and the Wildenstein Plattner Institute are battling over copyright ownership of Modigliani research © Photo: Peter Kovalev/TASS/Alamy Live News

The Wildenstein Plattner Institute (WPI) has hit back against the Modigliani expert Marc Restellini's attempt to sue it for holding his research "hostage" with a biting counterclaim that says the scholar and his Institut Restellini are infringing its copyright material, therefore the WPI is entitled to a share of their profits.

Restellini filed a lawsuit against the WPI in New York in June as a response to his allegation of the non-profit's alleged plans to publish his long-awaited Modigliani catalogue raisonné online—for free—before he publishes it himself next year. He claims the WPI is holding his work—including the "trade secrets" of his scientific research—"hostage", violating his copyright and trying to pass off Restellini's work as its own without compensation or attribution. Restellini is demanding that the institute be stopped from publishing and disseminating his research and be forced to destroy all digital copies. But the WPI claims to have the right to publish his work as, at the time of doing his research, Restellini was working for The Wildenstein Institute (WI), which transferred its archives, including the Modigliani material, to the WPI in 2017.

The WPI's response, filed in the Southern District court of New York on Friday, claims Restellini's lawsuit "is a belated and wrongful attempt to seize control over scholarship that was researched, collected and organised by others, and to 'own' facts concerning the artist Amedeo Modigliani ("Modigliani") that do not belong to him." Restellini, the WPI says, "hopes to create monopoly power for himself over historical information about Modigliani, which Restellini further plans to leverage for his own, maximum profit."

The WPI says its mission is "to maximize the public dissemination of art historical information for scholarship's sake" and therefore is not a competitor to Restellini. It claims the expert "acknowledged over *seven years ago* that he is not the sole owner of the materials and any attached intellectual property" and that for two years from 2013 to 2015, Restellini tried unsuccessfully to buy his research back from the WI.

That means, the WPI says, that Restellini knew he did not own the Modigliani material and that the copyright belonged to the WI (and now the WPI). The WPI scathingly claims Restellini is trying to prevent public access to the research in order to control who views it at "whatever price he may set" and that he "dismisses WI's contribution of resources and the work of its staff in researching, collecting and creating the Modigliani Material as either non-existent or menial."

The WPI is making four counterclaims against Restellini and his Institut Restellini for copyright infringement, conversion and false advertising. Restellini and his Institut, the WPI claims, "have profited, and continue to profit, from their use of Modigliani Material"—according to the counterclaim, the Institut charges "around €30,000 per Modigliani-based inquiry" and "derives substantial revenue from interstate and international commerce." The Institut website's statement that the WI transferred the ownership of the catalogue raisonné to it in 2015 is, the WPI says, "intentionally false and misleading."

The WPI is also seeking a permanent injunction preventing Restellini and the Institut from making any use of or sole-ownership claims to the Modigliani material, alongside damages, legal fees and a share of any profits made by Restellini and the Institut from the material.

In response to the WPI's counterclaim, Daniel W. Levy, Restellini's US lawyer, tells *The Art Newspaper*: "As Marc's complaint makes clear, all of the original material that he created

during his years of work on Modigliani was Marc's work alone and no one other than he supervised the work on Modigliani. Contrary to WPI's recent allegations, the Wildenstein Institute always intended that Mr. Restellini would be the sole author of the catalogue raisonné and, indeed, that is what the Wildenstein Institute repeatedly said in public over many years." He adds: "Marc looks forward to proving all of this at the appropriate time and to reclaiming the material that, as the complaint alleges, WPI continues to hold hostage."