

Art & Cultural Property Law

NEWSLETTER EDITION 3 – SUMMER 2025

KINGSLEY NAPLEY
WHEN IT MATTERS MOST

Welcome to the third edition of the **KN Art & Cultural Property Law newsletter**, which has been prepared by our team of specialist lawyers.

Art and cultural property law continues to develop quickly, and in very interesting directions. Our team at Kingsley Napley have been keeping a close eye on developments in this arena, with our experts in civil fraud, criminal litigation, AML compliance, data protection and intellectual property rights providing pragmatic, innovative, holistic legal advice to suit the needs of the sector.

In this edition of the newsletter we examine key issues and developments shaping the art world today. The intersection of art, cultural heritage, and the law remains a dynamic and rapidly evolving field. We discuss aspects of the impact of AI on the art world – both from a digital assets perspective and in terms of copyright; shine a light on key international disputes and fraudulent activity; consider art ownership in the context of divorce and family matters; and, highlight the increasingly onerous obligations on Art Market Participants in terms of reporting obligations and compliance in relation to anti-money laundering and, now, sanctions.

The contents of this newsletter are for information only, and must not be relied on as legal or professional advice. For further information or advice on any of issues we have written about here, please speak to your usual KN contact, or visit this page to contact the specialist Art & Cultural Property Law team.

Thank you to Teresa Young and Úna Campbell for their help in preparing this newsletter.

Our very best wishes and warmest thanks also go to Ellie Fayle.

Nicola Finnerty
Melanie Hart



Nicola Finnerty
Partner



Melanie Hart
Partner



Key Statistics

80

arrests and more than 37 700 cultural goods seized in major art trafficking action (2024)

107

antiquities, valued around \$1.2 million, repatriated to Italy by the Manhattan District Attorney's office (Feb 2025)

≈ 50

art businesses were included in a list of Art Market Participants (AMPs) that have failed to comply with money laundering regulations

71

fake Picassos and Rembrandts found in workshop in Rome (Feb 2025)

Key Acronyms

AI – Artificial Intelligence

AML – Anti-money laundering

AMP – Art market participant

CPS – Crown Prosecution Service

FATF – Financial Action Task Force

HMRC – His Majesty's Revenue & Customs

MLRs – The Money Laundering Regulations 2017 (as amended)

NCA – National Crime Agency

NFT – Non-fungible token

POCA – Proceeds of Crime Act 2002

SFO – Serious Fraud Office

Digital assets

Introduction of Property (Digital Assets etc) Bill

On 11 September 2024, the UK government introduced the Property (Digital Assets etc) Bill, aiming to clarify the legal status of digital assets under English and Welsh law. The bill confirms that digital assets, such as cryptocurrencies, NFTs, and carbon credits, can be classified as personal property, granting them similar legal protections as traditional property types.

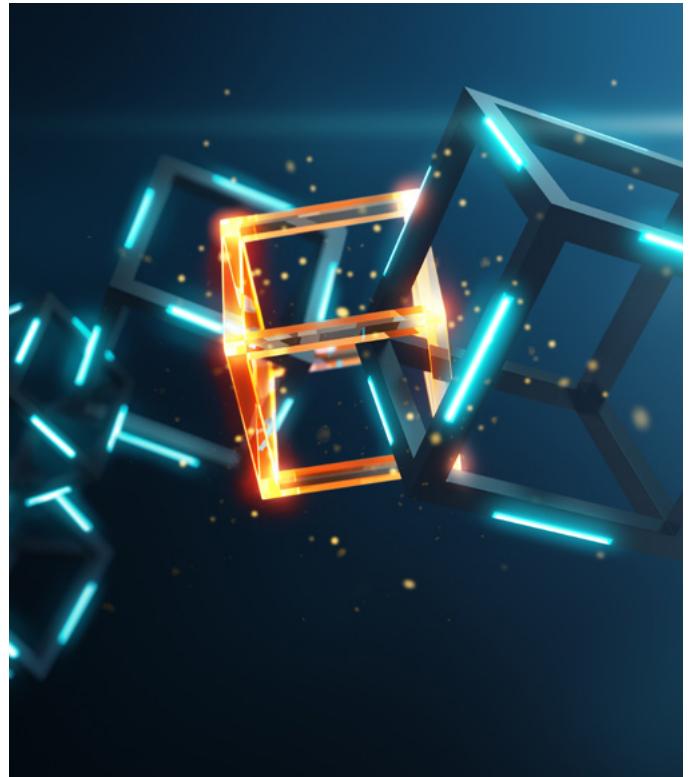
The bill responds directly to the Law Commission's 2023 report, which highlighted ambiguity in how certain digital assets fit within existing legal categories: "things in possession" (e.g. cash, physical items) and "things in action" (e.g. shares, debt). The new bill introduces a third category of property, encompassing "things that are digital or electronic in nature," thereby ensuring digital assets are not excluded from legal protection simply due to their intangible form.

This change will provide legal clarity, allowing asset holders to enforce rights in cases of fraud, theft, or disputes, and ensures digital assets can be included in insolvency and estate proceedings. Crucially, personal property rights are enforceable against the world, strengthening legal ownership and transaction security.

The bill avoids defining "digital asset" too narrowly, instead deferring to common law to determine what qualifies under this new category. By affirming the legal status of digital assets, the UK seeks to maintain a competitive edge in the global fintech and crypto industries, aiming to attract investment and bolster English law's international appeal. The government has yet to announce the bill's implementation timeline, but remains committed to modernising digital asset legislation.

[UK Parliament](#)

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How Poland is using blockchain to preserve cultural heritage

Bank Pekao, Poland's second-largest bank, has partnered with blockchain platform Aleph Zero and the Arctic World Archive (AWA) to launch Archiv3, a pioneering initiative aimed at preserving Polish cultural heritage through cutting-edge technology. The project involves digitising significant artworks by renowned Polish artists such as Jan Matejko and Stanisław Wyspiański using high-resolution 3D scanning to create museum-quality digital replicas. These replicas are tokenised as non-fungible tokens and stored on Aleph Zero's eco-friendly blockchain, to ensure transparency, immutability, and long-term security.

To further safeguard these digital assets, they are archived in the Arctic World Archive, a secure facility in Svalbard, Norway, designed to protect cultural and scientific data from disasters and cyberattacks. This vault already holds global treasures like documents from Unesco and the Vatican Library, and now includes Polish digital art.

The initiative not only preserves historical art but also supports contemporary artists like Lia Kimura, whose work is being tokenised as part of the project.

[The Art Newspaper](#)



Rubens or replica? AI authentication faces scrutiny in new attribution debate

A recent AI analysis by Swiss firm Art Recognition has reignited debate over the authenticity of *The Bath of Diana*, a painting long believed to be a copy of a lost Rubens work. The AI model identified parts of the painting as potentially authentic, suggesting Rubens' hand may be present, although not throughout the entire composition. The analysis, commissioned by the painting's French owner, found 10 of 29 patches tested had over 80% probability of authenticity.

However, Nils Büttner, a leading Rubens scholar and chairman of the Centrum Rubenianum, strongly disagrees. He points to stylistic inconsistencies and material anomalies, such as the canvas primer and underdrawing, that do not align with Rubens's known methods. He also cited a 2016 report by art historian Gregory Martin ruling out Rubens' authorship.

Although Büttner co-authored earlier work validating AI in authentication, he believes Art Recognition's model in this case was limited by insufficient training data. The company did use a fragment of *The Bath of Diana* from Rotterdam (which was attributed to Rubens' studio) but later excluded it from training, arguing it lacked Rubens' direct hand.

The controversy indicates the promise and limitations of AI in the art world. Experts agree that collaboration between technologists and scholars is crucial for refining AI tools. As the technology evolves, datasets must be expanded and refined to deliver more accurate results, suggesting that today's AI verdicts may be revised as understanding improves.

[Artnet](#)

Artists protest Christie's AI art auction over copyright concerns

In February 2025, Christie's announced "Augmented Intelligence," its inaugural auction dedicated solely to artworks created using AI. The sale, scheduled to run from 20 February 2025 to 5 March 2025, featured over 20 pieces by artists such as Refik Anadol, Harold Cohen, Holly Herndon and Mat Dryhurst, Alexander Reben, and Claire Silver. The auction aimed to explore the intersection of art and technology, showcasing how AI can augment human creativity.

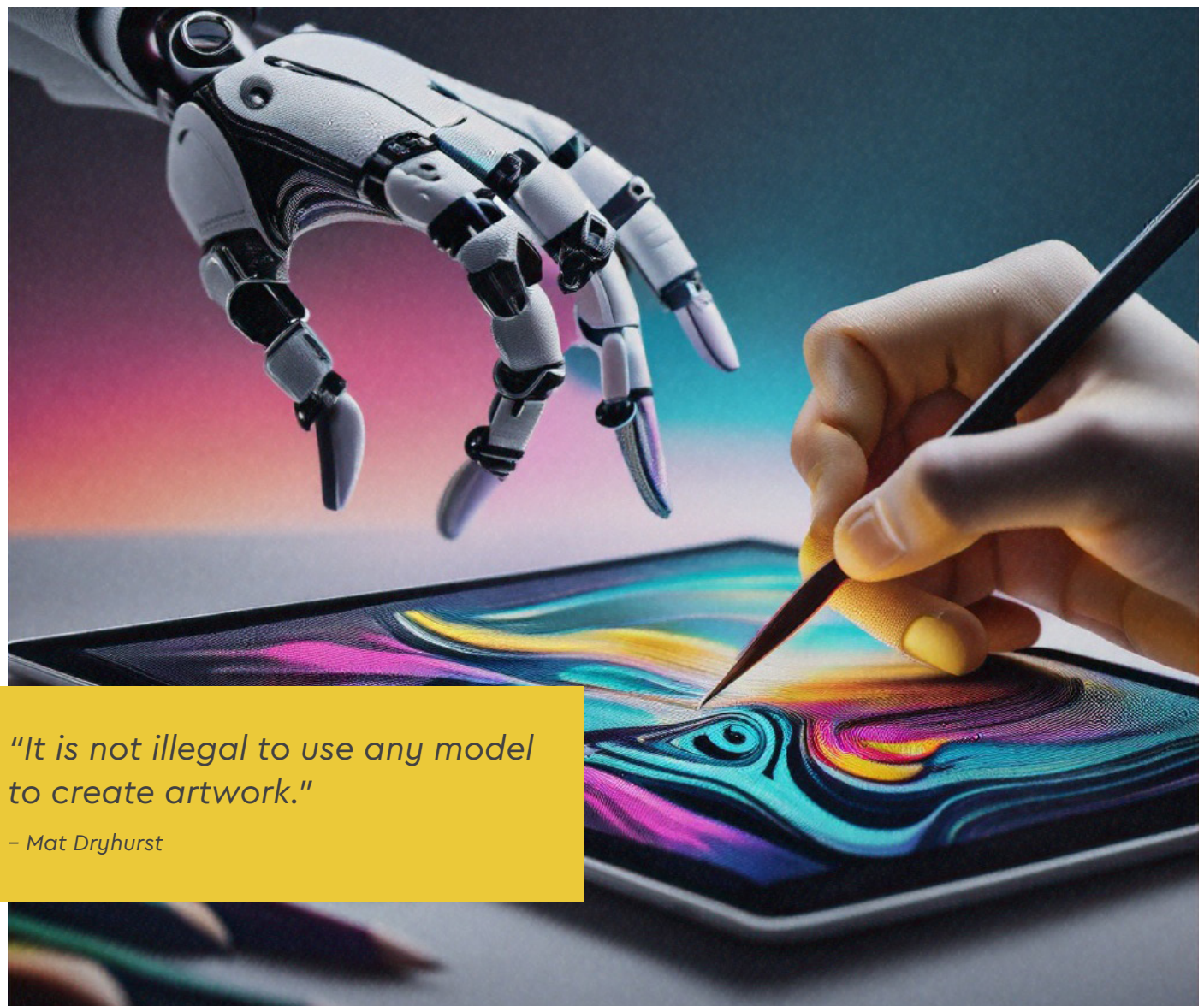
However, the event sparked significant controversy. An open letter addressed to Christie's digital art specialists, Nicole Sales Giles and Sebastian Sanchez, garnered over 3,000 signatures from artists and creatives. The letter expressed "serious concern" that many artworks in the auction were created using AI models trained on copyrighted works without authorisation. It argued that such practices exploit human artists by using their work without permission or compensation to develop commercial AI products that compete with them.

In response, a Christie's spokesperson stated that the artists represented in the sale have strong, multidisciplinary art practices, some recognised in leading museum collections. They emphasised that the works use AI to enhance the artists' bodies of work.

Artists featured in the auction defended their use of AI. Mat Dryhurst, collaborating with Holly Herndon, highlighted their efforts to advocate for artists' rights in the AI era, including co-founding Spawning, a platform that helps artists discover if their work has been used in training datasets. As Dryhurst stated, "It is not illegal to use any model to create artwork."

The auction concluded on 5 March 2025 with strong results, surpassing its \$600,000 estimate by raising \$728,784. Notably, 48% of the bidders were millennials or Gen Z, and 37% were first-time buyers. The highest-grossing lot was Refik Anadol's Machine Hallucinations – ISS Dreams – A, which sold for \$277,200. The 34-lot sale achieved an 82% sell-through rate despite facing backlash from nearly 4,000 artists who criticised the ethical implications of AI art.

[Artnet](#)



"It is not illegal to use any model to create artwork."

– Mat Dryhurst

Theft, fraud and crime

Three convicted for theft of Cattelan's \$6M toilet

Three men have been convicted for their roles in the 2019 theft of America, Maurizio Cattelan's fully functional, 18-karat gold toilet, valued at \$6.1 million. The heist took place at Blenheim Palace, England, where the sculpture was plumbed into the estate as part of an exhibition. Its removal caused extensive water damage. The artwork has never been recovered, and is believed to have been melted down and sold.

Following a three-week trial, Michael Jones, 39, was convicted of burglary, while Fred Doe, 36, was found guilty of conspiracy to convert or transfer criminal property. A third defendant, Bora Guccuk, 41, was acquitted. A fourth man, James Sheen, 40, pleaded guilty in 2024 after forensic evidence, including gold fragments in his clothing, linked him to the crime.

Surveillance footage showed masked individuals removing parts of the sculpture and loading them into a getaway vehicle. The CPS revealed that Jones scouted the palace weeks before the crime, photographing vulnerable entry points and locks. The thieves used stolen vehicles and sledgehammers to carry out the burglary in under five minutes.

Sheen, a builder and former employer of Jones, coordinated with Doe using coded messages to arrange the sale of the gold, referencing prices like "26 and a half," interpreted as £26,500 per kilo.

The CPS believe the case disrupted a broader money-laundering network. "It was an audacious raid... but those responsible left behind a trail of evidence," said the CPS.

[Artnet](#)

"It was an audacious raid... but those responsible left behind a trail of evidence"

– CPS

New York returns looted antiquities to Greece following major trafficking probe

Manhattan District Attorney Alvin L. Bragg, Jr. announced the repatriation of 11 antiquities, valued at nearly \$1 million, to Greece. The items were recovered through criminal investigations, including one into the late London-based art trafficker Robin Symes. To date, the Antiquities Trafficking Unit (ATU) has seized 121 items linked to Symes, worth over \$56 million.

Key returned artefacts include a 4th–3rd century BCE Grave Relief depicting a banquet scene, and a Roman-era marble mortar set, likely used for luxury substances. These pieces had been smuggled out of Greece, and surfaced on the international art market.

The repatriation ceremony was attended by Greek officials, including Minister of Culture Dr. Lina Mendoni. Under Bragg's leadership, the ATU has recovered over 2,225 looted artefacts from 39 countries, valued at \$250 million. Since its inception, the unit has returned more than 5,400 antiquities to 29 nations, demonstrating international cooperation in protecting cultural heritage.

[Artnet](#)



Far-right Greek MP vandalises artworks at National Gallery, citing blasphemy

On 10 March 2025, Greece's National Gallery in Athens was temporarily closed after Nikolaos Papadopoulos, a member of the far-right Niki party, vandalised four paintings he deemed blasphemous. Accompanied by an associate, Papadopoulos forcibly removed the artworks from the walls, resulting in shattered protective glass and damage to the pieces. The targeted paintings, created by artist Christoforos Katsadiotis, were part of the exhibition "The Allure of the Bizarre," which includes contemporary interpretations of religious icons.

Prior to the incident, Papadopoulos had criticised these works in Parliament, asserting they were offensive to Orthodox Christianity. Following his actions, he was detained by police but released after several hours.

The National Gallery's board condemned the act. Katsadiotis defended his work, stating it was a poetic expression intended to provoke thought, not to offend.

[Artnet](#)



Civil litigation

US lawsuits over authenticity of works in Basquiat exhibition dropped

Lawsuits have been dropped between Florida's Orlando Museum of Art and the family of Aaron De Groft, former director and CEO of the museum, marking the end of a prolonged dispute concerning authenticity of several Jean-Michel Basquiat paintings.

The dispute began in 2022, one year into De Groft's term as director of the Orlando Museum of Art (OMA), when the FBI raided the museum's exhibit 'Heroes & Monsters: Jean-Michel Basquiat'. The raid was part of the FBI's investigation into accusations of art fraud, with an affidavit referencing De Groft's involvement in the alleged scheme. The case gained momentum in 2023, when an LA auctioneer revealed he forged the Basquiat works displayed in the OMA exhibit. OMA filed a lawsuit against De Groft in 2023, accusing the former director of fraud, conspiracy, and breach of fiduciary duty. De Groft responded with his own lawsuit, alleging defamation and wrongful termination by the OMA. After a short illness, De Groft died in January 2025. His family and the OMA agreed to drop both cases, citing the high cost of litigation.

It's not all that ends well for the owners of the fake works, however. Owners of the fraudulent Basquiat collection made a claim to a Florida court for nearly \$20m, arguing they are entitled to compensation for the value of the works seized in the FBI raid. The insurers dispute this, arguing their policy does not cover forged pieces that "have no value".

[The Art Newspaper](#) | [ArtNews](#) | [The Art Newspaper on insurance claim](#)



Intellectual property rights

First US copyright granted to AI-generated image

This January, the US Copyright Office published new guidelines stipulating that images produced with AI are largely exempt from copyright protection. In light of this guidance, the Copyright Office suggested there is a point at which, with enough human interaction, an AI-generated image would be eligible for copyright protection.

Kent Keirsey, the founder of generative AI platform Invoke, established where that threshold exists when his digital piece titled *A Single Piece of American Cheese* became the first AI-generated image to receive copyright protection in February. The artwork features a stylised depiction of a three-eyed woman with mosaic-like blue skin and yellow hair resembling spaghetti, topped with the titled square of American cheese.

After his copyright application for another AI image was rejected by the Copyright Office in 2023, Keirsey submitted the paperwork for *A Single Piece of American Cheese* in August 2024. When the initial application was also rejected because the Office deemed it lacked human involvement, Keirsey appealed the decision, providing additional evidence to show his role in the image's production. Invoke published a time-lapse video of Keirsey's screen as he used text prompts to develop multiple preliminary illustrations before choosing one digital piece to add further details. Keirsey believes it will become easier for artists to receive copyright protection for AI-generated pieces in the future as the technology continues to develop.

[Artnet](#)

German court rules Birkenstocks not works of art

Ergonomic, popular, and easily recognisable for its cork sole: Birkenstock sandals may be all three, but the highest court in Germany has ruled that the company cannot copyright its orthopaedic footwear as "works of applied art".

The judgment was decided after the German footwear brand filed multiple lawsuits against competitor companies for alleged breach of copyright, in an effort to prevent the sale of imitation cork-soled shoes. Birkenstock's legal team pointed to other unique works that have been awarded this copyright protection under German law, including Bauhaus-style lighting and the Porsche 356 car. "Under copyright law it has been recognised for decades that outstanding designs

of everyday objects can also be protected by copyright," Birkenstock lawyer Konstantin Wegner said, advocating for why the brand should also be awarded this legal protection.

The federal court in Germany disagreed, citing a difference between art and design products. To achieve protected status, art products must display a level of creativity, the court in Karlsruhe stipulated, while works of design are more practical. Ultimately, the court ruled, "pure craftsmanship using formal design elements" is insufficient for achieving copyright status.

[The Guardian](#)

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UK considers introducing 'right to personality' laws for creators

As generative AI technologies continue to develop, the UK government is looking into updating its own copyright laws to offer greater protection for artists. These new protections could include a 'right to personality' for creators whose images, voices, and other recognisable characteristics are among the material used to train AI algorithms. The government plans to unveil these new laws within the next two years.

These proposals come at a time of heightened tension between artists and AI companies. In December 2024, the ChatGPT company OpenAI launched its video creation tool Sora, which allows users to generate up to 20 seconds of footage from text. Leaders in the art world have spoken out about such technologies, insisting that generative tech should be used to assist artists, not merely profit from their copyrighted material.

The UK consultation group will examine how existing copyright laws could be used to regulate AI products' scraping of artists' content. Proposed updates could include banning AI programmes from generating images or videos in imitation of specific people or groups.

However, artists interested in having AI algorithms trained with their copyrighted data could be paid to licence their content specifically for this purpose.

Ministers involved in the consultation group are also examining how to not place artists at a disadvantage if they decide against licencing their material. The group has made efforts to avoid characterising their plans as an 'opt out' model, given the uproar that erupted in respect of separate proposals to reform copyright law (allowing AI tech companies to train algorithms using copyrighted material unless an artist has explicitly refuses to consent).

While the 'opt out' model is similar to the EU's approach to generative AI, UK artists have voiced criticism that this kind of model would allow AI companies to exploit artists whose material is used to train such products. Tech companies, including Google, have urged the UK government to allow such practices, arguing data mining is essential for the UK to remain competitive as technologies continue to develop.

[Artnet](#) | [Financial Times](#)

Human creativity key to copyrighting AI-generated works, says US copyright office

Earlier this year, the US Copyright Office published a second report in its three-part series on copyright law and the use of artificial intelligence. The 52-page document, published in late January, focusses on the 'copyrightability' of AI-generated work.

The key element to achieving copyright protection for pieces produced with AI is human involvement and creativity, according to the Copyright Office. The report detailed three areas where AI-generated works could fall into this category, including where an author uses AI as an assistive tool to create art; creative human inputs that are used to general AI-produced outputs (though only the human input may be copyrighted); and the modification of AI-generated content by a human. Another significant finding of the report is the human use of written prompts to instruct an AI system is not enough to prove human authorship of a piece. In its reasoning, the Copyright Office cited how using identical written prompts could generate an infinite variety of AI-produced outcomes, so further evidence would be required to demonstrate the human involvement in a work.

The US Copyright Office also found that existing laws are robust enough to adapt to new technologies and media, including AI. The January report was the second in a series by the Copyright Office exploring the interaction of copyright and AI. First announced in 2023, the Office has since reviewed over 10,000 public comments and held public listening sessions, webinars, and meetings with stakeholders and experts to collect data. A final report, analysing the legal ramifications of using copyrighted material to train algorithms, is expected to be published later this year.

[US Copyright Office](#) | [Reuters](#)

Anti-money laundering and financial sanctions

New financial sanctions reporting obligations for art sector now in force

AMPs are under increasing scrutiny and will now be subject to reporting obligations in relation to financial sanctions. As of 14 May 2025, art market participants were added to the list of 'relevant firms' subject to financial sanctions reporting requirements.

The Office of Financial Sanctions Implementation (OSFI) has issued [Guidance](#) for entities and individuals that operate in the sale or trade of high value goods, especially those trading internationally with regions that may be subject to UK financial sanctions restrictions.

OSFI highlights how "a variety of techniques are used within this sector to circumvent and evade UK financial sanctions" and counsels that understanding these "common evasion practices and having proportionate due diligence in place is crucial for building a robust compliance programme."

An art market participant's financial sanctions reporting obligations will apply in relation to 'information or another matter' that comes to it "in the course of carrying on its business" which means either when it:

- trades in, or acts as an intermediary in, the buying or selling of works of art, where the transaction value (or the value of a series of linked transactions) is €100,000 or more; or
- stores works of art where the value of the works of art so stored for a person, amount to €10,000 or more.

Those who are required to inform OFSI must do so as soon as practicable if they know or have reasonable cause to suspect a person (i) is a designated person or (ii) has committed breaches of the UK sanctions regulations. A relevant firm is only subject to this reporting obligation where the information or other matter on which the knowledge or reasonable cause for suspicion is based, came to it in the course of carrying on their business.

A stark message is given in the Guidance that "the onus is on you to ensure that you have put in place sufficient measures to ensure you do not breach financial sanctions". A message worth heeding given that penalties for not complying with the new regulations could include up to seven years imprisonment or fines of up to £1 million (or 50% of the value of breach, if higher).

Leaders within the UK's art trade have criticised OFSI's decision to impose further regulations on the industry, arguing businesses would benefit from greater clarity on the new obligations. This is not the first governmental action related to preventing industry exploitation in recent years, as the NCA issued an amber warning last year notifying the art storage facilities sector to take increased caution with client due diligence related to criminal sanctions. The communication includes "Key Indicators and Useful Questions" and some case studies.

These responsibilities are in addition to obligations already placed on those within the art sector under the Anti-Money Laundering regime.

Art dealer in the public eye is first person to be charged with a terrorist financing

Following an investigation into terrorist financing by officers from the National Terrorist Financial Investigation Unit (NTFIU), Oghenochuko Ojiri was charged with eight counts of allegedly failing to make a disclosure about suspected terrorist financing during the course of his business within the regulated sector, contrary to section 21A of the Terrorism Act 2000. The charges relate to a period from October 2020 to December 2021. On 9 May he pleaded guilty to the above charges and on 6 June sentenced to two years and six months' imprisonment.

The investigation was carried out in partnership with the Office of Financial Sanctions Implementation (OFSI) in HM Treasury, HMRC, and the Met's Arts & Antiques Unit.

[Metropolitan Police news](#)



HMRC fines nearly 50 AMPs for failure to comply with AML regulations

HMRC issued fines to nearly 50 UK AMPs for not complying with anti-money laundering regulations. These fines, issued between 1 January and 30 September 2024, involved failure to apply for registration by the June 2021 deadline. The businesses affected – ranging from art dealers and galleries to interior design companies and art advisors – averaged fines of £3,000, with some reaching as high as £13,000.

HMRC's late registration fines are calculated using the gross profits of a business's less allowable expenses. Some of the businesses who voluntarily disclosed their late registration reported feeling "punished for being honest". Others report that they chose not to appeal HMRC's decision, given the difficulty of identifying a contact within the department.

AMPs levied with fines are recommended to communicate with HMRC to set up realistic payment plans. HMRC reminded those in the art sector that it is their intention to "support businesses to protect themselves from criminals who would exploit their services". This includes ensuring businesses fulfil their legal obligations under AML regulations. Leaders within the art market have called for continued work with HMRC, as the department continues to learn about the unique intricacies of the industry.

Aside from being a warning of the perils of non-compliance, the identities of the publicly named and shamed businesses offer a glimpse into HMRC's priorities and its pursuit of compliance.

[The Art Newspaper](#) | [Kingsley Napley](#)

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Art & family matters

Hang on to your Hockney – Protecting art in prenuptial agreements

It is 16 May 2022. Sotheby's, New York. A collection is being auctioned, achieving the highest total from a single sale in the auction house's 277-year history. \$922.2 million. The culmination of a bitter divorce between Harry Macklowe (property mogul) and Linda Macklowe (prominent art curator).

While perhaps not on the scale of the Macklowe collection, disputes around the division of art on divorce are not uncommon. Issues can quickly arise regarding whether the art is joint or sole property, how it will be valued, and most importantly who will be keeping it. The most effective way to mitigate these issues is to enter into a pre or postnuptial agreement, setting out in clear terms how the art will be dealt with if the marriage comes to an end.



A broad-brush approach

When parties divorce and attentions turn to dividing the assets, the starting point for the court is equality, i.e. an 50/50 sharing of all assets which were built up during the relationship. This is crosschecked against each parties' needs, which are assessed by considering their standard of living during the relationship and the wealth and resources which are now available to them, and then against the concept of overall fairness. The needle can therefore move from 50/50, depending on whether either party has capital or income needs which are greater than what a half share would give them (and children, for example, are a common justification for that greater need), and whether, in the circumstances, a particular outcome is fair.

Needs can also justify an invasion of one party's "non-matrimonial" assets, i.e. assets which the party may have owned prior to the relationship or received by way of gift or inheritance. The distinction between "matrimonial" and "non-matrimonial" is, however, not always straightforward. For example, a piece of art chosen and purchased during the relationship using funds from a joint investment portfolio could quite rightly be categorised as "matrimonial", but what about art acquired shortly after the wedding from one party's sole funds? Is it "non-matrimonial" purely by reference to who paid for it? What if the parties went on to have a long marriage, were both avid art collectors and displayed the piece in the kitchen? The position becomes less clear.

A further issue which can arise is in relation to valuation. The court strives to find the overall net value of the parties' assets, but often can only do so with the help of expert valuations. The role of an expert is to provide clarity and avoid lengthy legal arguments over value, but as can be seen from the recent case of *GO v YA*, when it comes to large art collections or art businesses, adopting a proportionate methodology can be difficult. It is important to be aware that factors which affect valuations, such as market volatility, provenance and condition, could lead to competing evidence and further disputes.

Even then, if parties can clear the hurdles of characterisation and valuation, the physical division of their art could quickly become the central issue. One party may connect with or feel sentimental about certain pieces, or they may favour keeping a collection together, for the effort which went into curating it and the higher value it attracts as a whole. The court has powers to divide chattels if the parties cannot reach agreement, but it is likely that at least one party will leave dissatisfied with the outcome.

Drawing a line

The purpose of a pre or postnuptial agreement is to remove the uncertainty in respect of how finances will be dealt with in the event of divorce. It is common for one or both parties to attempt to protect or ringfence assets they are bringing into the marriage ("non-matrimonial" assets) so that these do not form part of the pot to be shared. Often these assets will include art, or other valuable chattels such as jewellery, cars, wine or heirlooms.

To protect art in a nuptial agreement, it is important to clearly identify the art or the collection. In order to give an agreement the best chance of being upheld, the parties must (among other things) exchange financial disclosure to the extent that each of them are fully informed about the implications of signing the agreement. Schedules of assets are appended and these should include detailed descriptions of the art, including the title, artist, date and medium. Parties are also obliged to provide values for all assets, therefore it would be prudent, particularly if a party has a large collection, to obtain appraisals or refer to recent documentation which evidences the value of each piece.

Generally, nuptial agreements will characterise assets as either "separate" (to be kept by one party) or "joint" (to be shared in some way, either equally or by reference to contributions). Whether current or future art is intended to be ringfenced or shared, this should be set out clearly in the relevant provisions. Parties will need to approach any future acquisitions with the terms of the agreement firmly in mind. For example, it will be important that joint funds (or a mingling of sole and joint funds) are not used if the intention is to keep a piece within a party's separate property. The mingling of sole and joint funds presents a significant challenge when characterising "matrimonial" and "non-matrimonial" property, and requires a detailed (and often costly) investigation into the provenance of assets, which should be avoided if possible.

If the collection is sizeable, or certain pieces are in demand, it may be necessary to consider covering in the nuptial agreement how the income from licensing or gallery and exhibition fees will be treated, or how the costs of maintenance will be met. Additionally, if the art is likely to appreciate in value significantly, this may need to at least be referenced in the schedule of assets to ensure both parties consider this when signing.

If there is ever a dispute over which items fall within separate property or how they were purchased or maintained, the documentation becomes crucial. Parties will need to rely upon purchase receipts, insurance documents, and/or restoration or conservation records.

Most of all however, specialist legal advice should be a priority to ensure that the nuptial agreement minimises the prospects of a prolonged, Macklowe-esque dispute in the future.

Valuing art in divorce litigation: GO v YA [2024] EWFC 411

The recent case of GO v YA demonstrates some of the difficulties which can arise when valuing large collections of art and art businesses in the context of a divorce.

The husband was a renowned art dealer and owned a business which bought and sold art. He also held a private collection, all of which formed part of the matrimonial assets of which his wife sought a share. The husband valued his business at around £6 million and his collection at £153,000, but the wife sought expert valuations. The husband was directed by the court to provide an inventory, which when it was finally produced came to over 3,000 individual pieces. The court sought to adopt a proportionate approach by ordering that a cross-section of 375 pieces (around 10%) would be valued by an expert, and a valuation of the whole collection would then be extrapolated from that figure.

The cross-section valued by the expert was on average 50% higher than the values provided by the husband. The wife therefore attempted to argue that the same arithmetic should be applied to the remaining 90% of the collection, bringing the total valuation to £18.3 million. The husband substantially disagreed with the expert, relying on his own knowledge and experience and a partisan accountancy report. The court was not convinced by the wife's proposed approach, albeit acknowledged that there had to be some reconciliation between the expert and the husband's own figures (though noting the husband could not simply say he "knew better").

Despite some "reservations", the court valued the business at £13 million. The wife received a lump sum of £3.1 million, taking into account tax payable at 30% and after applying a suitable discount to reflect that the husband was retaining the business (a risk-laden, illiquid asset).

This decision emphasises the court's focus on proportionality and pragmatism when faced with competing evidence, and the desire to apply a principled (as opposed to purely mathematical) approach to asset division on divorce.

[Financial Remedies Journal](#)

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'Madonna and Child': A Case Study.

Will it ever find its way home?

In 1973, amid a series of thefts targeting European cultural institutions, 'Madonna and Child', a 16th-century painting by Antonio Solario, was stolen from the Civic Museum of Belluno, Italy. For half a century, its whereabouts remained unknown, until it unexpectedly resurfaced in Norfolk, in the possession of Barbara De Dozsa.¹

Despite the painting's inclusion on multiple international stolen art databases, including those maintained by Interpol and the Italian carabinieri, Ms De Dozsa initially refused to return it. Her claim rested on the Limitation Act 1980 and the belief that her now-deceased husband, Baron de Dozsa, had acquired it in good faith the same year it was stolen.

However, in July 2025, after years of negotiation and persuasion, most notably by specialist art lawyer Christopher Marinello, Ms De Dozsa voluntarily handed over the painting to its rightful owner, the Civic Museum of Belluno. The saga, which had long seemed destined to end in litigation or stalemate, found closure through an unexpected act of goodwill.²

At the heart of the case lay a long-standing legal and ethical dilemma: can legal ownership ever arise from an act of theft?

The Tort of Conversion: Possession is not nine-tenths of the law

The museum's potential legal claim would likely have been centred on the tort of conversion (a civil wrong), which arises when one party wrongfully interferes with another's property rights, in a way that denies the rightful owner's claims.

Conversion does not require intent. It is a strict liability tort: to possess property to which one has no right is, in itself, actionable. In this context, the museum would have likely argued that the painting was stolen, and never ceased to belong to the people of Belluno.

Under the *nemo dat quod non habet* rule, a thief cannot pass good title. This Latin maxim has stood for centuries and finds particular resonance in the world of stolen art, where provenance is paramount. Even if Baron de Dozsa bought

Update:
It has



the painting in ignorance, the museum's title remains legally intact unless extinguished by, for instance (and as previously relied on by Ms De Dozsa), a limitation period.

The Limitation Act 1980: Does the Passage of Time Legitimise Ownership?

Ms De Dozsa's principal argument had been anchored upon the operation of the Limitation Act 1980, which provides that a claim for the tort of conversion must be brought within six years of the first conversion (i.e. passage of title) after the painting was stolen. Successive conversions do not restart that clock and, if the six-year deadline passes, then the original owner's title in the item is extinguished.

Arguably, therefore, the limitation period began in 1973, when the painting was apparently first purchased by Baron De Dozsa; and, for a case not involving a stolen item, the limitation period would be understood to have expired in 1979. However, the law treats conversions involving stolen items differently. For a stolen item, the limitation period will only start to run from the date of the first conversion not "related to" the theft – and any conversion subsequent to the theft will be presumed to be "related to" the theft unless the purchaser (or successive owner) can demonstrate that the item was purchased in good faith.

The practical effect of the Limitation Act is that it ultimately seeks to balance giving the original owner a fair opportunity to retrieve their property, whilst also giving a bona fide purchaser certainty and security after that six-year window has closed. However, it does not shield a purchaser who ought to have known better – and case law has set a high bar for this standard by requiring adequate due diligence. For instance, had this matter proceeded to Court, consideration would be given to whether Baron De Dozsa was a sophisticated collector; the degree to which the theft of the painting in 1973 had been publicised; whom the painting had been acquired from, and in what circumstances; what provenance was offered for the painting, and; what enquiries the Baron made at the time.

Marinello dismissed the limitation argument as “nonsense”, noting that the painting’s presence on international stolen art registries meant it could never be legally sold or insured, much less transported.

Wheels within wheels

The cross-border journey of the Solario painting raised further complex questions concerning which country’s law should be applied to the dispute.

The application of foreign law by an English court can be extremely complex, and will largely be determined by the specific circumstances of the case and when the events took place. For example, under the EU’s Rome II Regulation (which has been retained as part of UK law post-Brexit), the law applicable to a tortious act is typically that of the country in which the harm occurred. This would point to the application of Italian law, where the theft took place, but also perhaps to English law, if the Baron acquired the painting from a seller in England (constituting the first conversion). However, this would only apply to conversions that took place (in the case of EU Rome II) after 2009 or (in the case of UK Rome II) after the end of the Brexit transition period, from 1 January 2021 onwards. The Baron is said to have acquired the painting in 1973, which pre-dates the implementation of Rome II – and so the pre-existing patchwork of legislation and common law would apply.

The reason why choice of law would have mattered is because Italian law differs markedly from English law. For example, where English law holds that a thief can never have, or pass on, good title to a stolen object, Italian law allows a good faith purchaser to obtain good title, even against the original owner – an outcome that would have favoured Ms De Dozsa. However, there would also be a question around whether an English court would be required to apply the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects 1995 (which Italy has acceded to, and so incorporated into its domestic law, but which the UK has not). The effect of this would be that the original owner may be entitled to retrieve the item, subject to the payment of fair and reasonable compensation.

There are other complications that would need to be considered, such as EU Directive 2014/60/EU (on the return of cultural objects unlawfully removed from the territory of a Member State), which might apply if the painting was actually only removed to the UK between 1993 and the end of the Brexit transition period.

All of this simply illustrates how difficult, and expensive, it could have been for the museum to mount a civil claim to recover the painting – irrespective of the eventual determination.

Civil vs. Criminal Law: A Grey Zone of Enforcement

There is no suggestion that the De Dozsas participated in any wrongdoing concerning the disappearance of the painting from the museum. Nevertheless, deciding to knowingly retain a stolen artwork, after being explicitly informed of its provenance, raises serious concerns.

The painting was seized by Norfolk Constabulary following her failed attempt to sell it at auction in 2017, but it was later returned to Ms De Dozsa in 2020 because the Italian carabinieri had not provided supporting evidence to the Norfolk Constabulary in time to justify continued retention of the painting. Contradicting how Ms De Dozsa apparently later characterised it, the police confirmed that this did not confer ownership or validate title, and confirmed their view of this matter as a civil rather than criminal dispute.

However, although the Norfolk Constabulary concluded that the matter was a civil dispute, criminal law may not be entirely silent. For instance, the offence of handling stolen goods, under s.22 of the Theft Act 1968, does not require that the handler knows an item is stolen; mere belief will suffice.

Also, the law around money laundering, particularly under the Proceeds of Crime Act 2002, may apply where stolen property is retained or transferred with the intent to profit from it (although this is subject to a 20-year limitation period, save where there has been deliberate concealment of relevant facts). Whilst no such charges were brought in this case, this further illustrates the potential for legal peril surrounding the possession of stolen art.

“She has restored my faith in humanity... despite the rights of the victim, people have no sympathy any more – and she has proven otherwise.”

'Madonna and Child' – Previously Marooned

Even if Ms De Dozsa had retained physical possession of the painting, what could she realistically have done with a painting universally recognised as stolen? A selection of the obstacles are as follows:

- she could not sell it through any reputable auction house (having tried and failed to do so in 2017);
- she would be unlikely to be able to insure it, as no conscientious insurer would underwrite a stolen work;
- she could not securely bequeath it, as effective title cannot be passed through a will if she does not have good title to begin with (and her heirs may have been reluctant to assert any claim as beneficiaries, given both the moral implications but also the potential 40% inheritance tax bill which would be due); and,
- from a moral standpoint, she would have been keeping a cultural artefact from the community to whom it rightfully belongs.

In July 2025, Barbara De Dozsa agreed to return Madonna and Child to Belluno, unconditionally. She was persuaded, not by court action, but by the steady persistence of Christopher Marinello, who acted pro bono in securing the return. Arte Generali, an art insurance firm, helped cover logistical costs, even though it had no direct connection to the painting.

Marinello credited De Dozsa's ultimate decision, saying: *"She has restored my faith in humanity... despite the rights of the victim, people have no sympathy any more – and she has proven otherwise."*

Ms. De Dozsa herself declined to comment publicly, but her decision stands in contrast to the increasingly common trend of possessors clinging to contested artworks in the face of compelling moral and legal claims.

Restitution

International guidelines such as the Washington Conference Principles on Nazi-Confiscated Art emphasise restitution as a moral imperative, even when legal recourse is limited. These non-binding principles, which apply to items held in public institutions rather than private collections, arose from efforts to address the looting or misappropriation of artworks between 1933 and 1945. Although rooted in a specific historical context (and inapplicable in this instance), they are referenced here as an instructive comparator, reflecting a broader international consensus that, even where the law may be unable to provide a clear resolution, there remains an obligation to ethically deal with property that has been unlawfully obtained. Compensation is often seen as a viable remedy in such cases.

Italy could still have escalated matters through diplomatic or legal channels. Although Brexit has complicated international co-operation with the UK, Italy has historically been successful in recovering stolen artworks via Interpol and cross-border enforcement, particularly in cases involving looted antiquities.³ Whether they would have chosen to pursue a more aggressive stance is now unknown.

After more than fifty years, Madonna and Child is finally home. The case highlights the complex intersection of law, ethics, and cultural heritage. It also underscores an uncomfortable truth: that moral clarity is not always matched by legal clarity. Whether more holders of stolen art will follow her example remains to be seen. But for the people of Belluno, the return of Madonna and Child is more than restitution. As their mayor, Oscar De Pellegrin, put it: *"Returning this painting to the city means giving back a fragment of its identity, its history and its soul."*

Whether more holders of stolen art will follow her example remains uncertain. Until such disputes are resolved through stronger enforcement and international cooperation, stolen cultural property will continue to fall into the cracks between time, borders, and laws.

1 [The Guardian](#) 2 [The Guardian](#) 3 [Artnet.com](#)



Our Experts



NICOLA FINNERTY

PARTNER

+44 (0)20 7566 5270

nfinnerty@kingsleynapley.co.uk



MELANIE HART

PARTNER

+44 (0)20 7566 5288

mhart@kingsleynapley.co.uk



SOPHIE VOELCKER

PARTNER

+44 (0)20 7369 3810

svoelcker@kingsleynapley.co.uk



CHARLES RICHARDSON

PARTNER

+44 (0)20 7369 3775

crichardson@kingsleynapley.co.uk



JANE KEIR

PARTNER

+44 020 7814 1273

jkeir@kingsleynapley.co.uk



GEMMA TOMBS

LEGAL DIRECTOR

+44 (0)20 3535 1536

gtombs@kingsleynapley.co.uk



FRANCESCA PARKER

SENIOR ASSOCIATE

+44 (0)20 3535 1683

fparker@kingsleynapley.co.uk



PHOEBE ALEXANDER

ASSOCIATE

+44 (0)20 3535 1559

palexander@kingsleynapley.co.uk



LIAM HURREN

ASSOCIATE

+44 (0)20 7814 1207

lhurren@kingsleynapley.co.uk

WHEN IT MATTERS MOST





www.kingsleynapley.co.uk

info@kingsleynapley.co.uk

+44 (0)20 7814 1200

DX22 Chancery Lane

Kingsley Napley LLP, 20 Bonhill Street, London, EC2A 4DN

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