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News From the Kernochan Center Fall 2019

August 16, 2021

Symposium 2019: Exploring Copyright and Scope of Protection

The lecture hall was at capacity on October 1 for the Kernochan Center's Annual Symposium: Exploring Copyrightability and Scope of Protection. The symposium, co-sponsored by the United States Copyright Office, featured distinguished practitioners and scholars from across the country, and offered special insight into the policies, positions and practices of the Office. Members of the Office's leadership spoke, and the Register of Copyrights, [Karyn Temple](#), '97, as the keynote speaker, providing insight into the vast number and wide range of decisions made by the Copyright Office every week.

Karyn Temple, U.S. Register of Copyrights



The first of three panels was moderated by Center Deputy Director Philippa Loengard, and focused on the challenges new forms of authorship pose to copyrightability. The first speaker, [Regan Smith](#), General Counsel of the Copyright Office, was the first of several speakers to raise the question posed by Cady Noland's artwork *Log Cabin*, which was denied copyright on the grounds that it merely represented the commonly accepted form of a log cabin. Smith also cited several examples of works which were presented as creative works but denied copyright for reasons of authorship. Ms. Smith also addressed the question of the copyrightability of Fortnite dance moves. [Amelia Brankov](#) (Counsel, Frankfurt Kurnit Klein & Selz PC) also raised *Log Cabin*, and discussed alternate ways artists may protect themselves. [Shyam Balganes](#)h of Penn Law School focused closely on the meaning of human authorship, and suggested that it might be necessary to re-define the meaning of authorship in the 21st Century. [Christopher Buccafusco](#) of

Cardozo Law School built on these ideas, arguing for a paradox within the ideas of control and creativity with respect to authorship. Finally, [Robert Brauneis](#) of George Washington University Law School spoke to the requirements of site and fixation in the authorship of visual art.



Philippa Loengard, Regan Smith, Amelia Brankov, Shyam Balganes, and Christopher Buccafusco

Kernochan Center Executive Director June Besek moderated the second panel of the day, "Scope of Copyright Protection." The panel was divided into two parts; the first part focused on the doctrine of merger in copyright. [Joseph Gratz](#) (Partner, Durie Tangrie LLP) spoke first, followed by [Joshua Simmons](#), '10 (Partner, Kirkland & Ellis LLP), discussing the applicability of merger in protectibility and infringement, as well as the points at which it is applied. For the second part of the panel, [Dale Cendali](#) (Partner, Kirkland & Ellis LLP), [Robert Clarida](#) (Partner, Reitler Kailas & Rosenblatt LLC), Associate Register of Copyrights and Director of Registration Policy and Practice [Robert Kasunic](#), and Kernochan Center Faculty Director Jane Ginsburg discussed the *scènes à faire* doctrine and the fine line between formulaic components and new contributions by authors.

The day ended with a roundtable of practitioners, moderated by Prof. Ginsburg and joined by [Catherine Zeller Rowland](#), Associate Register of Copyrights and Director of Public Information and Education. The participants, [Janet Fries](#) (Of Counsel, Drinker Biddle LLP), [Tom Kjellberg](#) (Of Counsel, Cowan Liebowitz & Latman PC), [Megan Noh](#) (Partner, Pryor Cashman LLP), and [Nancy Wolff](#) (Partner, Cowan DeBaets Abrahams & Sheppard LLP) discussed their experience with applications to register non-conventional works, and took questions regarding some of the works which had been discussed over the course of the day, including *Log Cabin* and Deborah Kass's sculpture *OY/O*. Afterwards, attendees to the symposium, including practitioners, scholars and students, took part in a long and warmly engaged question-and-answer period. The Center thanks all our participants and everyone who was able to attend, and looks forward to another insightful symposium next year.

Young Alums in IP Return to Columbia Law School



Jocelyn Hanamirian, Jack Browning, and Nathalie Russell

On October 15, three recent graduates of Columbia Law School joined the Kernochan Center to discuss their post-school careers, and answer questions from current students. [Jack Browning](#), '13, currently an associate at Davis Wright Tremaine LLP, addressed the value of international experience. [Nathalie Russell](#), '12, explained how she moved from her student years to an Associate position at Loeb & Loeb LLP. Associate Principal Counsel at the Walt Disney Company, Jocelyn Hanamirian, '12, explained the specialization her job requires and the path she took to acquire it; she currently devotes most of her time to IP used in Disney parks and in events, such as parades. All three alumni shared stories from their careers in IP, from defending the First Amendment rights of journalists to licensing the Coca-Cola logo in an invented alphabet used in Disney's Star Wars theme park.

Thank You, Donors!

Every year, Columbia University designates a particular day to encourage donations from alumni across all schools. Many thanks to those donors who chose to designate the Kernochan Center as the particular recipient of their gifts on Columbia Giving Day! We appreciate your generosity

very much; your donations go towards funding programming which assists students in pursuing careers in IP law, and furthering scholarship and education in the field.

Fall IP Talk: Blockchain, Cryptocurrency and the Art Market

Angela Redai and Anne Bracegirdle spoke about the potential roles of cryptocurrency in the art market to a packed room on October 29. Highlighting the lack of transparency, antiquated record keeping and limited pricing information as just some of the reasons why some seek reform in the industry, the speakers showcased the advantages of a blockchain system. If widely adopted, such a system could become a digital ledger to report transactions or provenance information, and administer resale royalty payments in applicable nations. Because each “block” can be linked to a previous entry and, if one “block” is hacked, the rest of the chain is not necessarily compromised. But both Redai and Bracegirdle acknowledged potential pitfalls, the largest being the reluctance of a notoriously private community to participate in any system that records names and prices; the inability to mandate the recordation of private sales; and the question of what party would be liable for inaccuracies. It was an interesting taste of how innovation may change the workings of the art world, however, and we look forward to seeing where this technology is used.



Anne Bracegirdle and Angela Redai

Fall IP Talk: Meet the Artist: Jonathan Wolff

On November 4, the Center welcomed composer [Jonathan Wolff](#), colloquially known as “Seinfeld Music Guy” because he composed the music for that – and 75 other – television shows. He spoke about his career and how important a role attorneys played in his success. For example, when he had trouble understanding the complex royalty payment system offered by ASCAP, his attorney suggested Wolff join an upstart competing PRO named SESAC, headed by CLS alumnus [Freddie Gershon](#), '64. Wolff admired SESAC’s transparent accounting practices, and the organization’s for-profit status, coupled with its freedom from the Consent Decrees governing the workings of ASCAP and BMI, allowed them to guarantee double the returns of those industry leaders. This, Wolff added, was the reason he could remain a profitable composer in a difficult industry.



Myna Gershon (wife of Freddie), Jonathan Wolff, Prof. Jane Ginsburg, and Freddie Gershon, '64

Kernochan Center News

On October 24, Kernochan Center Deputy Director Philippa Loengard spoke at the New York City Bar Association. The subject of the panel was Hot Topics in Art Law; the subjects of the Deputy Director's remarks were the CASE Act and new VARA cases. The following day, on October 25, she spoke at the Art Law Litigation and Dispute Resolution conference on Negotiating Artists' Contracts for Installation Art Pieces.

Alum Updates

[Alvise Casellati](#), LL.M. '01, who left the law to become a conductor, recently conducted *La scala di seta* at the Opera della Fenice, Venice.

Are you an alum? [Let us know what you've been up to!](#)