

FALL 2023



JUDITH BRESLER FELLOWSHIP MIDTERM REPORT

PREPARED BY PATRICK K. LIN,
JUDITH BRESLER FELLOW
2023 - 2024

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TO CONTRIBUTE TO THE JUDITH BRESLER FELLOWSHIP FUND CONTACT
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MEET THE 2023-2024 JUDITH BRESLER FELLOW



PATRICK K. LIN

Patrick K. Lin earned his law degree from Brooklyn Law School, where he was the Executive Notes Editor of the *Brooklyn Law Review* and held leadership positions in several student organizations, including President of the Asian-Pacific American Law Students Association and Secretary of the Art Law Association. He also worked for a variety of public interest organizations, such as the American Civil Liberties Union (ACLU), Electronic Frontier Foundation (EFF), and the Federal Trade Commission (FTC).

During law school, Lin wrote his debut book, *Machine See, Machine Do*, which explores the ways public institutions use technology like artificial intelligence to surveil, police, and make decisions about the public. He has also published articles on copyright and art, AI, data protection, and technology regulation in reputable law journals and publications, such as the *Santa Clara Law Review* and *Albany Law Journal of Science & Technology*. His work has been featured in *ArtAsiaPacific*, *Built In*, *Politico*, and *ABILITY Magazine*. Lin has presented his research at Stanford University, State of the Net, and Cloudflare TV, among others.

MISSION OF THE JUDITH BRESLER FELLOWSHIP

In 2020, with the passing of Judith Bresler, a prominent attorney and educator who co-authored the seminal "Art Law" treatise, the art law community lost a prominent and beloved colleague. Judith was a tireless advocate for the advancement of art and law and an inspiration to her colleagues and to all seeking to dedicate themselves to the practice and advancement of art and law.

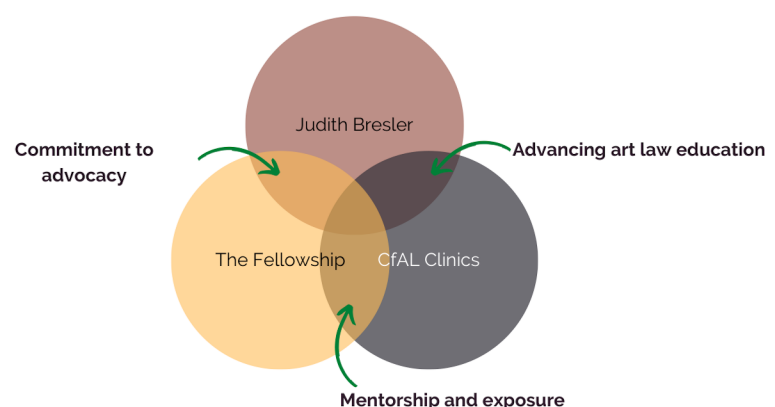
In memory of Judith Bresler, the Center for Art Law is proud to offer the Judith Bresler Fellowship to candidates who exhibit many of the gifts, qualities, and passions that Judith so beautifully embodied.

Along with a desire to forge meaningful connections between law and the arts, the Center for Art Law is committed to educating visual artists and the attorneys who defend them. In recognition of the numerous contributions that Judith Bresler made to advance the art law field as a lawyer, professor, author, mentor, and advocate for the arts, the Center is offering the Judith Bresler Fellowship to recent law school graduates.

Funds for the Judith Bresler Fellowship have been pledged and contributed by individual and corporate donors, including:

Family and Friends of Judith Bresler
Appraisers Association of America
Withers Bergman LLP

Madeline and Arnold Schuster Foundation



VISUAL ARTISTS' LEGAL CLINICS

The Center for Art Law launched its Visual Artists' Legal Clinics in 2020, sharing informational resources and offering pro bono consultation to artists, covering topics related to immigration, legacy and estate planning, and artist-dealer relations.

The Judith Bresler Fellow leads the operation of the Visual Artists' Legal Clinics.

By coordinating the planning of clinic sessions; and performing field research toward the creation of clinics dedicated to helping artists navigate (1) O-1 visas and immigration processes, (2) consignment contracts and artist-dealer relationships, and (3) legacy and estate planning, the fellow further creates a network of resources to promote and expand the mission of the clinics while working with volunteer attorneys, clients, stakeholders, and related organizations on offering relevant and timely pro bono clinical sessions.

Pursuant to the Center's objective of making art law accessible to practicing artists, clinics have become a seminal part of its offerings for the art and law community. The Center currently operates three clinics and hosts six clinic sessions each year.

Since joining the Center in September 2023, Patrick has organized and hosted one session for each of the following clinics:

- Visual Artists' Immigration Clinic
- Artist-Dealer Relationships Clinic
- Artist Legacy & Estate Planning Clinic

VISUAL ARTISTS' IMMIGRATION CLINIC

October 2023

The Visual Artists' Immigration Clinic is designed to guide emerging and established international visual artists through the process of obtaining a visa to the United States. The Clinic provides visual artists with an opportunity to discuss their eligibility for an artist visa with an experienced attorney. Following the Clinic, participants receive immigration law guides and can schedule a more in-depth consultation with the Center's volunteer attorneys.

Teresa Woods Peña was the keynote speaker for our October 2023 Clinic. She is an immigration attorney at the Woods Law Group who previously worked with the Vera Institute of Justice's Center on Immigration and Justice as well as the United Nations High Commissioner for Refugees. Teresa's presentation was a thorough walkthrough of the O1-B artist visa application process, including the strength of different types of evidence as well as the timeline and fees.

Volunteer Attorneys for the October 2023 Clinic:

- Rakhel Milsetin | Milstein Law Group
- Cielomar Puccio | Brandlett Law
- Kimberly Xavier | Covey Law
- Michael Lehach | Lehach & Filippa, LLP



**TERESA
WOODS PEÑA**

ARTIST-DEALER RELATIONSHIPS CLINIC

November 2023

The Artist-Dealer Relationships Clinic helps artists and gallerists negotiate effective and mutually-beneficial contracts. The Clinic connects artists, dealers, and attorneys to forge meaningful relations and provide a platform for artists and dealers to learn about consignment agreements and have their questions on the topic addressed by experts in the field.

In addition to one-on-one pro bono consultations, the Clinic offers primers, workshops and webinars on the law governing artist-dealer relations and facilitate conversations between artists, dealers and attorneys on drafting and negotiating contracts and consignment agreements.

Caitlin Dempsey was the keynote speaker for our November 2023 Clinic. She is an associate in Kurzman Eisenberg Corbin & Lever LLP's corporate practice and art law practice. Caitlin provided participants with an insightful explanation of the amendment to New York's Arts & Cultural Affairs Law and highlighted provisions in consignment agreements to pay attention to.

25 participants attended this Clinic and 11 one-on-one consultation sessions were conducted.

Volunteer Attorneys for the November 2023 Clinic:

- Wendy Dickieson | Withersworldwide
- Olivia Taylor | Withersworldwide
- David Breyer | Olshan Frome Wolosky



**CAITLIN
DEMPSEY**

ARTISTS LEGACY AND ESTATE PLANNING CLINIC

December 2023

The Artist Legacy and Estate Planning Clinic and its affiliated programming seek to connect artists, estate administrators, attorneys, tax advisors, and other experts to create meaningful and lasting solutions for expanding the art canon and art legacy planning. The Clinic offers information, referrals, and general guidance to emerging and established artists looking to find resources and advice for art legacy planning.

Clarissa Rodriguez delivered the keynote presentation for our December 2023 clinic. She is a partner at Harper Meyer LLP, where her practice focuses on art and entertainment law, international litigation, and arbitration. Clarissa counsels clients on all issues related to the purchase, sale, and ownership of art and advises clients on all areas of due diligence, litigation, alternative dispute resolution, and transactions related to artwork, the art market, and the art world. Her presentation provided an overview of the trust and estate process as well as cautionary tales of what pitfalls to avoid.

13 participants attended this Clinic and 8 one-on-one consultation sessions were conducted.

Volunteer Professionals for the December 2023 Clinic:

- Cynthia Pearson | Overton, Lyman & Prince, LLP
- Charles Rosoff | Appraisal Services Associates
- Wendy Dickieson | Withersworldwide
- Trace Brooks | Trace Brooks Law



**CLARISSA
RODRIGUEZ**

VISUAL ARTISTS' LEGAL CLINICS UPDATE

Visual Artists' Immigration Clinic

When the Center for Art Law first launched the Visual Artists' Immigration Clinic in 2020, it was filling a need for the art community. Having served dozens of artists by connecting them with our network of immigration attorneys and sharing informational resources, we are proud of the Clinic's impact. However, with declining interest and participation in the Visual Artists' Immigration Clinic this past year, the Center has decided to refocus its resources to better respond to artists' other needs.

While the Visual Artists' Immigration Clinic will be discontinued, the Center will continue serving artists in this space by converting the Clinic to an annual workshop, while continuing to organize various other immigration-law-related programming, such as webinars, publishing articles, and sharing informational resources.

Art & Copyright Law Clinic

If there is one thing that has captured the cultural spotlight this year, it would have to be artificial intelligence. Although AI has been around for years, it entered the mainstream at the end of last year thanks to OpenAI and image generators like Midjourney and Stable Diffusion. These applications allow users to turn selfies into stylized "portraits" or text into "paintings."

The proliferation of generative AI has prompted many artists to worry about their copyright and what actions can be taken to prevent tech companies from taking their work to train AI models. Based on requests we have received from artists as well as responses to our clinic feedback surveys, the Center plans to launch the Art & Copyright Law Clinic in April 2024.

ADVOCACY, RESEARCH & WORKSHOPS

- In November 2023, Patrick published an article for the Center covering a new software that hides data in artists' uploaded work that deteriorates the quality of generative AI models with the hope of making tech companies think twice before scraping artists' work to train their models.
- In October 2023, Patrick co-wrote a comment with Atreya and Irina, responding to the US Copyright Office's request for comments on AI and copyright issues. The comment advocated for copyright protections for artists while recognizing the potential for AI to be a tool for artists.
- Patrick organized and moderated a workshop covering legacy and estate planning strategies for artists and collectors. The workshop was one of the Center's most popular and attended events of 2023 with 49 participants.
- Patrick also attended the 2023 Art Law Day, hosted by the Appraisers Association of America, staffing the exhibitors' table for the Center.

Workshop: Legacy and Estate Planning Strategies for Artists & Collectors

with Cynthia Pearson | Overton, Lyman & Prince LLP

NOVEMBER 20TH | 12 PM EST | ONLINE (ZOOM)



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Brooklyn, NY 11201
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Before the United States Copyright Office
Library of Congress

Comment from the Center for Art Law in Response to Request for
Comments on Artificial Intelligence and Copyright

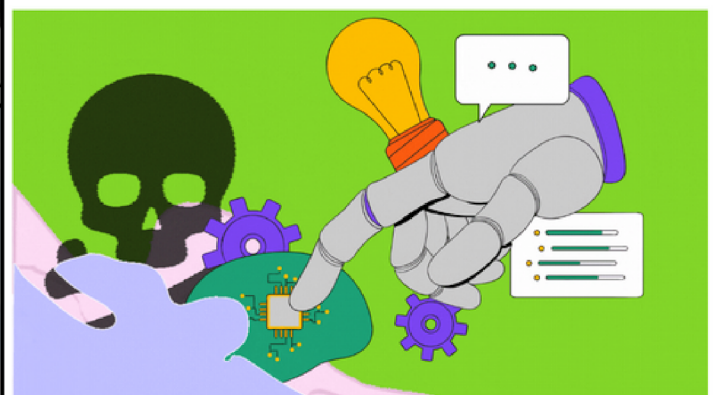
Docket No. 2023-6

This is a submission from the [Center for Art Law](https://www.itsartlaw.org) in response to the Request for Comments on Artificial Intelligence (AI) and Copyright from the United States Copyright Office. The Center's response addresses the copyright issues raised by generative AI, namely issues "involved in the use of copyrighted works to train AI models, the appropriate levels of transparency and disclosure with respect to the use of copyrighted works, and the legal status of AI-generated outputs." This submission presents the following:

1. When using copyrighted works to train AI models, the output matters;
2. Businesses must be required to disclose when copyrighted works are used to generate AI content;
3. The U.S. Copyright Office's "human authorship" approach is the right approach for determining the legal status of AI-generated outputs; and
4. Any rule or law around AI and copyright must account for artists' perspectives, including protecting artists while allowing collaboration with AI tools.

Can This Data Poisoning Tool Help Artists Protect Their Work from AI Scraping?

November 21, 2023



Art by Patrick K. Lin, created using Canva.

By Patrick K. Lin

GET INVOLVED



There are many ways to support the Center for Art Law to ensure that we continue our important work for the art law community, from hosting legal clinics and accessible workshops to keeping our newsletter free.



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**We are looking to endow the Judith Bresler Fellowship
Help us make it an annual opportunity!**

